

1 AN ACT relating to the Energy and Environment Cabinet.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 12.020 is amended to read as follows:

4 Departments, program cabinets and their departments, and the respective major  
5 administrative bodies that they include are enumerated in this section. It is not intended  
6 that this enumeration of administrative bodies be all-inclusive. Every authority, board,  
7 bureau, interstate compact, commission, committee, conference, council, office, or any  
8 other form of organization shall be included in or attached to the department or program  
9 cabinet in which they are included or to which they are attached by statute or statutorily  
10 authorized executive order; except in the case of the Personnel Board and where the  
11 attached department or administrative body is headed by a constitutionally elected officer,  
12 the attachment shall be solely for the purpose of dissemination of information and  
13 coordination of activities and shall not include any authority over the functions,  
14 personnel, funds, equipment, facilities, or records of the department or administrative  
15 body.

16 I. Cabinet for General Government - Departments headed by elected officers:

- 17 (1) The Governor.
- 18 (2) Lieutenant Governor.
- 19 (3) Department of State.
- 20 (a) Secretary of State.
- 21 (b) Board of Elections.
- 22 (c) Registry of Election Finance.
- 23 (4) Department of Law.
- 24 (a) Attorney General.
- 25 (5) Department of the Treasury.
- 26 (a) Treasurer.
- 27 (6) Department of Agriculture.

- 1 (a) Commissioner of Agriculture.
- 2 (b) Kentucky Council on Agriculture.
- 3 (7) Auditor of Public Accounts.
- 4 II. Program cabinets headed by appointed officers:
- 5 (1) Justice and Public Safety Cabinet:
- 6 (a) Department of Kentucky State Police.
- 7 (b) Department of Criminal Justice Training.
- 8 (c) Department of Corrections.
- 9 (d) Department of Juvenile Justice.
- 10 (e) Office of the Secretary.
- 11 (f) Office of Drug Control Policy.
- 12 (g) Office of Legal Services.
- 13 (h) Office of the Kentucky State Medical Examiner.
- 14 (i) Parole Board.
- 15 (j) Kentucky State Corrections Commission.
- 16 (k) Office of Legislative and Intergovernmental Services.
- 17 (l) Office of Management and Administrative Services.
- 18 (m) Department for Public Advocacy.
- 19 (2) Education and Workforce Development Cabinet:
- 20 (a) Office of the Secretary.
- 21 1. Governor's Scholars Program.
- 22 2. Governor's School for Entrepreneurs Program.
- 23 (b) Office of Legal and Legislative Services.
- 24 1. Client Assistance Program.
- 25 (c) Office of Communication.
- 26 (d) Office of Budget and Administration.
- 27 1. Division of Human Resources.

- 1                   2.    Division of Administrative Services.
- 2                   (e)   Office of Technology Services.
- 3                   (f)   Office of Educational Programs.
- 4                   (g)   Office for Education and Workforce Statistics.
- 5                   (h)   Board of the Kentucky Center for Education and Workforce Statistics.
- 6                   (i)   Board of Directors for the Center for School Safety.
- 7                   (j)   Department of Education.
  - 8                   1.    Kentucky Board of Education.
  - 9                   2.    Kentucky Technical Education Personnel Board.
- 10                  (k)   Department for Libraries and Archives.
- 11                  (l)   Department of Workforce Investment.
  - 12                  1.    Office for the Blind.
  - 13                  2.    Office of Vocational Rehabilitation.
  - 14                  3.    Office of Employment and Training.
    - 15                  a.    Division of Grant Management and Support.
    - 16                  b.    Division of Workforce and Employment Services.
    - 17                  c.    Division of Unemployment Insurance.
- 18                  (m)   Foundation for Workforce Development.
- 19                  (n)   Kentucky Office for the Blind State Rehabilitation Council.
- 20                  (o)   Kentucky Workforce Investment Board.
- 21                  (p)   Statewide Council for Vocational Rehabilitation.
- 22                  (q)   Unemployment Insurance Commission.
- 23                  (r)   Education Professional Standards Board.
  - 24                  1.    Division of Educator Preparation.
  - 25                  2.    Division of Certification.
  - 26                  3.    Division of Professional Learning and Assessment.
  - 27                  4.    Division of Legal Services.

- 1 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 2 (t) Kentucky Educational Television.
- 3 (u) Kentucky Environmental Education Council.
- 4 (3) Energy and Environment Cabinet:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legislative and Intergovernmental Affairs.
- 7 2. Office of General Counsel.
- 8 3. Office of Administrative Hearings.
- 9 4. Mine Safety Review Commission.
- 10 5. Kentucky State Nature Preserves Commission.
- 11 6. ~~Kentucky Environmental Quality Commission.~~
- 12 ~~7.~~ Kentucky Public Service Commission.
- 13 (b) Department for Environmental Protection.
- 14 1. Office of the Commissioner.
- 15 2. Division for Air Quality.
- 16 3. Division of Water.
- 17 4. Division of Environmental Program Support.
- 18 5. Division of Waste Management.
- 19 6. Division of Enforcement.
- 20 7. Division of Compliance Assistance.
- 21 (c) Department for Natural Resources.
- 22 1. Office of the Commissioner.
- 23 2. Division of Technical and Administrative Support.
- 24 3. Division of Mine Permits.
- 25 4. Division of Mine Reclamation and Enforcement.
- 26 5. Division of Abandoned Mine Lands.
- 27 6. Division of Oil and Gas.

- 1                   7.    Division of Mine Safety.
- 2                   8.    Division of Forestry.
- 3                   9.    Division of Conservation.
- 4                   10.   Office of the Reclamation Guaranty Fund.
- 5                   ~~{11.   Kentucky Mining Board.}~~
- 6           (d)   Department for Energy Development and Independence.
  - 7                   1.    Division of Efficiency and Conservation.
  - 8                   2.    Division of Renewable Energy.
  - 9                   3.    Division of Biofuels.
  - 10                  4.    Division of Energy Generation Transmission and Distribution.
  - 11                  5.    Division of Carbon Management.
  - 12                  6.    Division of Fossil Energy Development.
- 13   (4)   Public Protection Cabinet.
  - 14                  (a)   Office of the Secretary.
    - 15                   1.    Office of Communications and Public Outreach.
    - 16                   2.    Office of Legal Services.
      - 17                    a.    Insurance Legal Division.
      - 18                    b.    Charitable Gaming Legal Division.
      - 19                    c.    Alcoholic Beverage Control Legal Division.
      - 20                    d.    Housing, Buildings and Construction Legal Division.
      - 21                    e.    Financial Institutions Legal Division.
  - 22                  (b)   Crime Victims Compensation Board.
  - 23                  (c)   Board of Claims.
  - 24                  (d)   Kentucky Board of Tax Appeals.
  - 25                  (e)   Kentucky Boxing and Wrestling Authority.
  - 26                  (f)   Kentucky Horse Racing Commission.
    - 27                   1.    Division of Licensing.

- 1                   2.    Division of Incentives and Development.
- 2                   3.    Division of Veterinary Services.
- 3                   4.    Division of Security and Enforcement.
- 4                   (g)  Department of Alcoholic Beverage Control.
- 5                   1.    Division of Distilled Spirits.
- 6                   2.    Division of Malt Beverages.
- 7                   3.    Division of Enforcement.
- 8                   (h)  Department of Charitable Gaming.
- 9                   1.    Division of Licensing and Compliance.
- 10                  2.    Division of Enforcement.
- 11                  (i)  Department of Financial Institutions.
- 12                  1.    Division of Depository Institutions.
- 13                  2.    Division of Non-Depository Institutions.
- 14                  3.    Division of Securities.
- 15                  (j)  Department of Housing, Buildings and Construction.
- 16                  1.    Division of Fire Prevention.
- 17                  2.    Division of Plumbing.
- 18                  3.    Division of Heating, Ventilation, and Air Conditioning.
- 19                  4.    Division of Building Code Enforcement.
- 20                  (k)  Department of Insurance.
- 21                  1.    Property and Casualty Division.
- 22                  2.    Health and Life Division.
- 23                  3.    Division of Financial Standards and Examination.
- 24                  4.    Division of Agent Licensing.
- 25                  5.    Division of Insurance Fraud Investigation.
- 26                  6.    Consumer Protection Division.
- 27                  7.    Division of Kentucky Access.

- 1 (l) Office of Occupations and Professions.
- 2 (5) Labor Cabinet.
- 3 (a) Office of the Secretary.
- 4 1. Division of Management Services.
- 5 2. Office of General Counsel.
- 6 (b) Office of General Administration and Program Support for Shared
- 7 Services.
- 8 1. Division of Human Resource Management.
- 9 2. Division of Fiscal Management.
- 10 3. Division of Budgets.
- 11 4. Division of Information Services.
- 12 (c) Office of Inspector General for Shared Services.
- 13 (d) Department of Workplace Standards.
- 14 1. Division of Employment Standards, Apprenticeship, and
- 15 Mediation.
- 16 2. Division of Occupational Safety and Health Compliance.
- 17 3. Division of Occupational Safety and Health Education and
- 18 Training.
- 19 4. Division of Workers' Compensation Funds.
- 20 (e) Department of Workers' Claims.
- 21 1. Office of General Counsel for Workers' Claims.
- 22 2. Office of Administrative Law Judges.
- 23 3. Division of Claims Processing.
- 24 4. Division of Security and Compliance.
- 25 5. Division of Information and Research.
- 26 6. Division of Ombudsman and Workers' Compensation Specialist
- 27 Services.

- 1                   7.   Workers' Compensation Board.
- 2                   8.   Workers' Compensation Advisory Council.
- 3                   9.   Workers' Compensation Nominating Commission.
- 4                   (f)  Workers' Compensation Funding Commission.
- 5                   (g)  Kentucky Labor-Management Advisory Council.
- 6                   (h)  Occupational Safety and Health Standards Board.
- 7                   (i)  Prevailing Wage Review Board.
- 8                   (j)  Apprenticeship and Training Council.
- 9                   (k)  State Labor Relations Board.
- 10                  (l)  Employers' Mutual Insurance Authority.
- 11                  (m)  Kentucky Occupational Safety and Health Review Commission.
- 12                  (6)  Transportation Cabinet:
- 13                   (a)  Department of Highways.
  - 14                    1.   Office of Project Development.
  - 15                    2.   Office of Project Delivery and Preservation.
  - 16                    3.   Office of Highway Safety.
  - 17                    4.   Highway District Offices One through Twelve.
- 18                   (b)  Department of Vehicle Regulation.
- 19                   (c)  Department of Aviation.
- 20                   (d)  Department of Rural and Municipal Aid.
  - 21                    1.   Office of Local Programs.
  - 22                    2.   Office of Rural and Secondary Roads.
- 23                   (e)  Office of the Secretary.
  - 24                    1.   Office of Public Affairs.
  - 25                    2.   Office for Civil Rights and Small Business Development.
  - 26                    3.   Office of Budget and Fiscal Management.
  - 27                    4.   Office of Inspector General.



- 1 (f) Office of Support Services.
- 2 (g) Office of Transportation Delivery.
- 3 (h) Office of Audits.
- 4 (i) Office of Human Resource Management.
- 5 (j) Office of Information Technology.
- 6 (k) Office of Legal Services.
- 7 (7) Cabinet for Economic Development:
- 8 (a) Office of the Secretary.
- 9 1. Office of Legal Services.
- 10 2. Department for Business Development.
- 11 a. Office of Entrepreneurship.
- 12 i. Commission on Small Business Advocacy.
- 13 b. Office of Research and Public Affairs.
- 14 c. Bluegrass State Skills Corporation.
- 15 3. Office of Financial Services.
- 16 a. Kentucky Economic Development Finance Authority.
- 17 b. Division of Finance and Personnel.
- 18 c. Division of Network Administration.
- 19 d. Compliance Division.
- 20 e. Incentive Assistance Division.
- 21 (8) Cabinet for Health and Family Services:
- 22 (a) Office of the Secretary.
- 23 (b) Office of Health Policy.
- 24 (c) Office of Legal Services.
- 25 (d) Office of Inspector General.
- 26 (e) Office of Communications and Administrative Review.
- 27 (f) Office of the Ombudsman.

- 1 (g) Office of Policy and Budget.
- 2 (h) Office of Human Resource Management.
- 3 (i) Office of Administrative and Technology Services.
- 4 (j) Department for Public Health.
- 5 (k) Department for Medicaid Services.
- 6 (l) Department for Behavioral Health, Developmental and Intellectual
- 7 Disabilities.
- 8 (m) Department for Aging and Independent Living.
- 9 (n) Department for Community Based Services.
- 10 (o) Department for Income Support.
- 11 (p) Department for Family Resource Centers and Volunteer Services.
- 12 (q) Kentucky Commission on Community Volunteerism and Service.
- 13 (r) Kentucky Commission for Children with Special Health Care Needs.
- 14 (s) Governor's Office of Electronic Health Information.
- 15 (9) Finance and Administration Cabinet:
- 16 (a) Office of General Counsel.
- 17 (b) Office of the Controller.
- 18 (c) Office of Administrative Services.
- 19 (d) Office of Public Information.
- 20 (e) Office of Policy and Audit.
- 21 (f) Department for Facilities and Support Services.
- 22 (g) Department of Revenue.
- 23 (h) Commonwealth Office of Technology.
- 24 (i) State Property and Buildings Commission.
- 25 (j) Office of Equal Employment Opportunity and Contract Compliance.
- 26 (k) Kentucky Employees Retirement Systems.
- 27 (l) Commonwealth Credit Union.

- 1 (m) State Investment Commission.
- 2 (n) Kentucky Housing Corporation.
- 3 (o) Kentucky Local Correctional Facilities Construction Authority.
- 4 (p) Kentucky Turnpike Authority.
- 5 (q) Historic Properties Advisory Commission.
- 6 (r) Kentucky Tobacco Settlement Trust Corporation.
- 7 (s) Kentucky Higher Education Assistance Authority.
- 8 (t) Kentucky River Authority.
- 9 (u) Kentucky Teachers' Retirement System Board of Trustees.
- 10 (v) Executive Branch Ethics Commission.
- 11 (10) Tourism, Arts and Heritage Cabinet:
- 12 (a) Kentucky Department of Travel and Tourism.
- 13 1. Division of Tourism Services.
- 14 2. Division of Marketing and Administration.
- 15 3. Division of Communications and Promotions.
- 16 (b) Kentucky Department of Parks.
- 17 1. Division of Information Technology.
- 18 2. Division of Human Resources.
- 19 3. Division of Financial Operations.
- 20 4. Division of Facilities Management.
- 21 5. Division of Facilities Maintenance.
- 22 6. Division of Customer Services.
- 23 7. Division of Recreation.
- 24 8. Division of Golf Courses.
- 25 9. Division of Food Services.
- 26 10. Division of Rangers.
- 27 11. Division of Resort Parks.

- 1                   12. Division of Recreational Parks and Historic Sites.
- 2                   (c) Department of Fish and Wildlife Resources.
- 3                   1. Division of Law Enforcement.
- 4                   2. Division of Administrative Services.
- 5                   3. Division of Engineering.
- 6                   4. Division of Fisheries.
- 7                   5. Division of Information and Education.
- 8                   6. Division of Wildlife.
- 9                   7. Division of Public Affairs.
- 10                  (d) Kentucky Horse Park.
- 11                  1. Division of Support Services.
- 12                  2. Division of Buildings and Grounds.
- 13                  3. Division of Operational Services.
- 14                  (e) Kentucky State Fair Board.
- 15                  1. Office of Administrative and Information Technology Services.
- 16                  2. Office of Human Resources and Access Control.
- 17                  3. Division of Expositions.
- 18                  4. Division of Kentucky Exposition Center Operations.
- 19                  5. Division of Kentucky International Convention Center.
- 20                  6. Division of Public Relations and Media.
- 21                  7. Division of Venue Services.
- 22                  8. Division of Personnel Management and Staff Development.
- 23                  9. Division of Sales.
- 24                  10. Division of Security and Traffic Control.
- 25                  11. Division of Information Technology.
- 26                  12. Division of the Louisville Arena.
- 27                  13. Division of Fiscal and Contract Management.

- 1                   14. Division of Access Control.
- 2                   (f) Office of the Secretary.
- 3                   1. Office of Finance.
- 4                   2. Office of Research and Administration.
- 5                   3. Office of Governmental Relations and Tourism Development.
- 6                   4. Office of the Sports Authority.
- 7                   5. Kentucky Sports Authority.
- 8                   (g) Office of Legal Affairs.
- 9                   (h) Office of Human Resources.
- 10                  (i) Office of Public Affairs and Constituent Services.
- 11                  (j) Office of Creative Services.
- 12                  (k) Office of Capital Plaza Operations.
- 13                  (l) Office of Arts and Cultural Heritage.
- 14                  (m) Kentucky African-American Heritage Commission.
- 15                  (n) Kentucky Foundation for the Arts.
- 16                  (o) Kentucky Humanities Council.
- 17                  (p) Kentucky Heritage Council.
- 18                  (q) Kentucky Arts Council.
- 19                  (r) Kentucky Historical Society.
- 20                  1. Division of Museums.
- 21                  2. Division of Oral History and Educational Outreach.
- 22                  3. Division of Research and Publications.
- 23                  4. Division of Administration.
- 24                  (s) Kentucky Center for the Arts.
- 25                  1. Division of Governor's School for the Arts.
- 26                  (t) Kentucky Artisans Center at Berea.
- 27                  (u) Northern Kentucky Convention Center.

- 1 (v) Eastern Kentucky Exposition Center.
- 2 (11) Personnel Cabinet:
- 3 (a) Office of the Secretary.
- 4 (b) Department of Human Resources Administration.
- 5 (c) Office of Employee Relations.
- 6 (d) Kentucky Public Employees Deferred Compensation Authority.
- 7 (e) Office of Administrative Services.
- 8 (f) Office of Legal Services.
- 9 (g) Governmental Services Center.
- 10 (h) Department of Employee Insurance.
- 11 (i) Office of Diversity and Equality.
- 12 (j) Center of Strategic Innovation.

13 III. Other departments headed by appointed officers:

- 14 (1) Council on Postsecondary Education.
- 15 (2) Department of Military Affairs.
- 16 (3) Department for Local Government.
- 17 (4) Kentucky Commission on Human Rights.
- 18 (5) Kentucky Commission on Women.
- 19 (6) Department of Veterans' Affairs.
- 20 (7) Kentucky Commission on Military Affairs.
- 21 (8) Office of Minority Empowerment.
- 22 (9) Governor's Council on Wellness and Physical Activity.
- 23 **(10) The Center for Renewable Energy Research and Environmental**
- 24 **Stewardship.**

25 ➔Section 2. KRS 146.090 is amended to read as follows:

- 26 (1) The secretary ~~of the~~ ~~for~~ Energy and Environment **Cabinet**, with the approval of the
- 27 Soil and Water Conservation Commission shall divide the state into nine (9) soil

- 1 and water conservation areas which shall contain as nearly as practicable, an equal  
2 number of soil and water conservation districts;
- 3 (2) The Soil and Water Conservation Commission shall consist of nine (9) members,  
4 not more than five (5) of whom shall be of the same political party, to be appointed  
5 by the secretary of the~~for~~ Energy and Environment Cabinet with the approval of  
6 the Governor;
- 7 (3) One (1) member shall be appointed from each of the areas from a list of two (2)  
8 names submitted from each ~~such~~ area by the supervisors of the soil and water  
9 conservation districts that have their principal offices therein. All members shall be  
10 supervisors of soil and water conservation districts;
- 11 (4) The term of office of each ~~such~~ member shall be four (4) years; provided that,  
12 whenever a member of the commission ceases to hold the office of district  
13 supervisor by virtue of which he is serving on the commission, his term of office as  
14 a member of the commission shall be terminated. In the case of any vacancy other  
15 than the one (1) caused by the expiration of a term, the secretary of the~~for~~ Energy  
16 and Environment Cabinet, with the approval of the Governor, shall appoint the  
17 successor from a list of two (2) names submitted by the supervisors of the soil and  
18 water conservation area which was represented by the former member. The  
19 successor shall also be a supervisor of a soil and water conservation district;
- 20 (5) The members of the commission shall designate a chairman from among their  
21 members and may from time to time change such designation. The commission  
22 shall keep a record of its official actions. A majority of the commission shall  
23 constitute a quorum. The commission may call upon the Attorney General for~~for~~  
24 ~~such~~ legal services as it may require. It may delegate to its chairman, any of its  
25 members, the director of the division, or any officer, employee, or agent,~~such~~  
26 powers and duties as it deems proper. Members of the commission shall receive no  
27 compensation for their services, but shall be entitled to expenses, including

1 traveling expenses, necessarily incurred in discharging their duties;

2 (6) The following persons are advisory members of the commission by virtue of their  
3 offices: the secretary of the~~for~~ Energy and Environment Cabinet, the  
4 Commissioner of Agriculture, the director of the agricultural experiment station, the  
5 director of vocational education, and the state conservationist of the United States  
6 Department of Agriculture.

7 ➔Section 3. KRS 146.100 is amended to read as follows:

8 (1) The secretary of the~~for~~ Energy and Environment Cabinet, with the approval of the  
9 Soil and Water Conservation Commission shall appoint a director of the Division of  
10 Conservation ~~who shall be a graduate of a recognized agricultural college,~~ with ~~at~~  
11 ~~least five (5) years practical~~ experience in professional agricultural activities and  
12 who shall serve as executive officer for the commission. The director shall serve at  
13 the will of, and receive~~such~~ compensation as may be determined by the secretary  
14 of the~~for~~ Energy and Environment Cabinet with the advice~~approval~~ of the Soil  
15 and Water Conservation Commission. ~~Before entering upon his duties, the director~~  
16 ~~shall take the constitutional oath. The director shall hold no other public office or~~  
17 ~~employment.~~ In addition to any other duties assigned to him or her by the secretary  
18 of the~~for~~ Energy and Environment Cabinet, the director shall exercise, subject to  
19 the approval of the secretary, general administrative supervision over all activities,  
20 employees and property of the commission;

21 (2) The secretary of the~~for~~ Energy and Environment Cabinet may employ ~~such~~  
22 ~~other~~ officers, employees, and agents, who shall serve at his or her will as he or  
23 she deems necessary, with the approval of the Soil and Water Conservation  
24 Commission, and shall provide for surety bonds for members, the director, officers,  
25 employees or agents if entrusted with funds or property.

26 ➔Section 4. KRS 146.110 is amended to read as follows:

27 (1) The commission shall have the general power to take any action it may consider



1 necessary or proper to assist soil and water conservation districts, agricultural  
2 districts, or watershed conservancy districts in carrying out their functions, powers,  
3 duties, and programs in accordance with the provisions of KRS Chapter 262, and  
4 for such purpose it may furnish financial and other aid to the districts and perform  
5 such services for them at their request as may be possible under available  
6 appropriations and resources;

7 (2) The commission has all the powers and duties formerly possessed by the State Soil  
8 Conservation Committee;

9 (3) The commission shall take any action it may consider necessary or proper in order  
10 to discharge for the state any of the state's functions, responsibilities, or duties  
11 relating to flood control, drainage, and other activities with respect to the  
12 conservation, utilization, or control of soil or water resources;

13 (4) The commission may request the Secretary of the Energy and Environment  
14 Cabinet to promulgate those administrative regulations as may be necessary to the  
15 performance of its duties and may enter into and execute any agreements or legal  
16 instruments that may be necessary for these purposes, and the commission~~it~~ shall  
17 have the authority to acquire necessary supplies, materials, and equipment, and  
18 warehousing, servicing, and maintenance facilities for equipment.

19 ➔Section 5. KRS 146.210 is amended to read as follows:

20 As used in KRS 146.210 to 146.360, the words listed herein shall have the following  
21 respective meanings, unless another or different meaning or intent shall be clearly  
22 indicated by the context:

23 (1) "Stream or watercourse" shall mean a flowing body of water or a section or portion  
24 thereof, including rivers, streams, and creeks.

25 (2) "Free flowing" shall mean existing or flowing in a natural condition without  
26 impoundment, diversion, straightening, riprapping, or other modification of the  
27 waterway. The existence, however, of low dams, diversion works, and other minor

1 structures at the time any stream is proposed for inclusion in the Wild Rivers  
2 System shall not automatically bar its consideration for such inclusion; provided,  
3 that this shall not be construed to authorize or to be intended to encourage future  
4 construction of such structures within components of the Wild Rivers System.

5 (3) "Road" shall mean a highway, a hard-surfaced road, or an improved or unimproved  
6 dirt road. The existence, however, of unimproved roads at the time any stream is  
7 proposed for inclusion in the Wild Rivers System shall not automatically bar its  
8 consideration for such inclusion; provided, that this shall not be construed to  
9 authorize or to be intended to encourage future construction of such roads where  
10 this would be contrary to the provisions of KRS 146.200 to 146.360.

11 (4) "Wilderness type recreation" shall mean activities such as fishing, hunting,  
12 canoeing, camping, hiking, horseback riding, exploring, archaeological and  
13 scientific investigation, and scenic and aesthetic enjoyment, which utilizes and  
14 protects to the highest degree the primitive and natural values of the area.

15 (5) "Visual horizon" shall mean the normal distance to which land and vegetative  
16 features can be unobstructedly viewed from the center of the stream.

17 (6) "Access point" shall mean an area along the stream under public ownership, or  
18 under easement acquired by agreement with a private landowner. This area would  
19 be available for public recreational use including, but not limited to, the launching  
20 of boats, picnicking, and camping.

21 (7) "Secretary" shall mean the secretary ~~of the~~ ~~for~~ Energy and Environment Cabinet or  
22 the successor to that office.

23 ➔Section 6. KRS 146.270 is amended to read as follows:

24 The Wild Rivers System shall be administered by the Energy and Environment Cabinet  
25 according to the policies and criteria set forth in KRS 146.200 to 146.360. The secretary  
26 ~~for energy and environment~~ shall adopt ~~such~~ rules or promulgate administrative  
27 regulations necessary for the preservation and enhancement of the stream areas as set

1 forth in KRS 146.250, and for control of recreational, educational, scientific, and other  
2 uses of these areas in a manner that shall not impair them. In ~~such~~ administration  
3 primary emphasis shall be given to protecting aesthetic, scenic, historic, archaeologic, and  
4 scientific features of the area. The secretary shall develop a management plan for a  
5 designated stream area and shall publicize and hold public hearings and record the views  
6 expressed on each plan developed. Management plans for a given stream area may  
7 establish varying degrees of intensity for its protection, based on special attributes of each  
8 area, but shall follow the concepts embodied in KRS 146.230. No public use of lands  
9 within the boundaries of a designated wild river area in which the state has acquired an  
10 interest shall be permitted prior to the development of a management plan. Any ~~such~~  
11 management plan shall be developed jointly with the Department of Fish and Wildlife  
12 Resources with respect to those aspects of the~~such~~ plan as relate to the jurisdiction of  
13 that department over fish and wildlife resources.

14 ➔Section 7. KRS 146.280 is amended to read as follows:

15 (1) Within the boundaries of a designated stream area, as established and authorized by  
16 the Kentucky General Assembly, the secretary shall be~~for energy and environment~~  
17 ~~is~~ authorized and empowered to acquire by purchase, exercise of the rights of  
18 eminent domain, grant, gift, devise, or otherwise, the fee simple title, an easement,  
19 or any acceptable lesser interest in any lands, and by lease or conveyance, contract  
20 for the right to use and occupy any lands. Where property within such boundaries is  
21 owned by the federal government, the secretary can enter into agreements with the  
22 landowning agency concerning use of the property consistent with the objectives of  
23 KRS 146.200 to 146.360. Nothing in KRS 146.200 to 146.360 shall be construed to  
24 deprive a landowner of the fee simple title to or lesser interest in his property  
25 without just compensation.

26 (2) The secretary ~~for energy and environment~~ may not exercise authority to acquire  
27 lands or interests in lands located within any incorporated city, village, or county

1 when such entities have in force a duly adopted, valid ordinance or plan for the  
2 management, zoning and protection of such lands in accordance with the provisions  
3 of KRS 146.200 to 146.360.

4 ➔Section 8. KRS 146.320 is amended to read as follows:

5 Nothing in KRS 146.200 to 146.360 shall preclude a component of the Wild Rivers  
6 System from becoming a part of the National Wild and Scenic Rivers System. The  
7 secretary shall be~~for energy and environment is~~ directed to encourage and assist any  
8 federal studies for inclusion of Kentucky streams in the National Wild and Scenic Rivers  
9 System. The secretary ~~for energy and environment~~ may enter into written cooperative  
10 agreements for joint federal-state or interstate administration of a Kentucky component of  
11 the National Wild and Scenic Rivers System, provided ~~such~~ agreements for the  
12 administration of water and land uses are not less restrictive than those set forth in KRS  
13 146.200 to 146.360.

14 ➔Section 9. KRS 146.330 is amended to read as follows:

15 The secretary ~~for energy and environment~~ may employ such technical, clerical,  
16 stenographic and other employees and assistants as are required to effectively carry out  
17 his duties and responsibilities as provided in KRS 146.200 to 146.360.

18 ➔Section 10. KRS 146.415 is amended to read as follows:

19 As used in KRS 146.410 to 146.530:

20 (1) "Natural area" means any area of land or water, or of both land and water, in public  
21 or private ownership, which either retains, or has reestablished to some degree in  
22 the judgment of the commission its natural character, though it need not be  
23 completely natural and undisturbed, or which has natural flora, fauna, biological,  
24 ecological, geological, scenic or archaeological features of scientific, aesthetic,  
25 cultural or educational interest;

26 (2) "Nature preserve" means a natural area, and land necessary for its protection, any  
27 estate, interest or right in which has been formally dedicated under the provisions of

1 KRS 146.410 to 146.530 to be maintained as nearly as possible in its natural  
 2 condition and to be used in a manner and under limitations consistent with its  
 3 continued preservation, without impairment, disturbance or artificial development,  
 4 for the public purposes of present and future scientific research, education, aesthetic  
 5 enjoyment and habitat for plant and animal species and other natural objects;

6 (3) "Articles of dedication" means the writing by which any estate, interest or right in a  
 7 natural area is formally dedicated, as provided in KRS 146.410 to 146.530;

8 (4) "Commission" means the Kentucky State Nature Preserves Commission;

9 (5) "System" means the state system of nature preserves established under KRS  
 10 146.410 to 146.530;

11 (6) "Cabinet" means the Energy and Environment Cabinet; ~~and~~

12 (7) "Director" means the director of the Kentucky State Nature Preserves Commission;

13 and

14 (8) "Secretary" means the Secretary of the Energy and Environment Cabinet.

15 ➔Section 11. KRS 146.485 is amended to read as follows:

16 In furtherance of the purposes of KRS 146.410 to 146.530, the commission shall have the  
 17 following additional powers and duties:

18 (1) To seek and approve the dedication of nature preserves as part of the system;

19 (2) To make and publish policies~~, and~~ and rules, and to recommend to the secretary the  
 20 promulgation of administrative regulations for the selection, acquisition,  
 21 management, protection, and use of natural areas and nature preserves, and for the  
 22 conduct of commission affairs;

23 (3) To cooperate with and to contract with any public body of this state, any public  
 24 body of any other state, any private organization, any individual, and the federal  
 25 government and its agencies;

26 (4) To purchase land from a willing seller without the use of the powers of  
 27 condemnation or eminent domain, which said powers are expressly denied to the

- 1           commission;
- 2   (5) To make reasonable investigations as to the ownership of any lands which it judges  
3       may be appropriate for acquisition;
- 4   (6) To maintain a state registry of natural areas, an inventory of natural types, flora, and  
5       fauna, and other records of natural areas and nature preserves within the  
6       Commonwealth;
- 7   (7) To promote the coordination of all departments, divisions and branches of state,  
8       county and city governments within the Commonwealth which relate to nature  
9       preserves;
- 10   (8) To study the operation of all laws, rules, regulations, orders, and governmental  
11       policies affecting conservation of natural resources pertaining to natural areas, and  
12       to recommend to the Governor, and to the General Assembly, new legislation, rules,  
13       regulations, orders and policies in the interest of correcting natural resource  
14       conservation problems pertaining to natural areas and nature preserves;
- 15   (9) To provide a central clearing house of information for environmental and  
16       conservation matters and to promote educational programs pertaining to natural  
17       areas and nature preserves;
- 18   (10) To conduct research, investigations, public hearings, and interpretative programs  
19       and to publish and disseminate information to the general public pertaining to  
20       natural areas and nature preserves;
- 21   (11) To supervise the protection, management, and use of nature preserves and to  
22       enforce and administer rules and regulations pertaining thereto;
- 23   (12) To promote, study, investigate, recommend, encourage, advise and assist in the  
24       preservation, protection, and management of natural areas;
- 25   (13) To report to the Governor and General Assembly on proposed legislation, policies,  
26       regulations, or actions, public or private, which may significantly affect the quality  
27       of the natural ecology or the human environment in the Commonwealth. Such

1 report shall include an evaluation of environmental and ecological effects, and shall  
2 compare any adverse effects of the proposed action against possible social  
3 benefits. The report shall describe and recommend appropriate alternatives, which  
4 avoid significant adverse effects on the quality of the natural ecology of natural  
5 areas;

6 (14) To submit to the Governor and members of the General Assembly, a report on or  
7 before January 15, 1977, and by the same date each second year thereafter, detailing  
8 the condition of each nature preserve in the system, and each registered natural area,  
9 and make ~~such~~ other reports and recommendations as it may deem advisable.

10 ➔Section 12. KRS 147A.031 is amended to read as follows:

11 (1) The Department for Local Government, in cooperation with cities, counties, waste  
12 management districts, waste industries, and the Energy and Environment Cabinet,  
13 ~~and the Environmental Quality Commission,~~ shall develop procedures designed to  
14 resolve conflicts resulting from municipal solid waste management facility siting  
15 and operation. The procedures shall address:

16 (a) Resolution of conflicts associated with multijurisdictional municipal solid  
17 waste management facilities, including the use of such techniques as  
18 negotiation, mediation, or arbitration to address issues, including but not  
19 limited to host community compensation and collection and disposal fees; and

20 (b) Resolution of issues, except those relating to permit conditions imposed by  
21 the cabinet, resulting from municipal solid waste management facility siting  
22 and operation, including the use of such techniques as negotiation, mediation,  
23 or arbitration to address concerns of those persons and landowners who are  
24 directly affected by the facility's location and operation. Issues which may be  
25 addressed include but are not limited to the following:

- 26 1. Operational issues, such as hours of operation;
- 27 2. Recycling and composting efforts that may be implemented;

- 1           3.    Protection of property values;
- 2           4.    Traffic routing and road maintenance; and
- 3           5.    Establishment of local advisory committees.

4   (2)   The Department for Local Government shall adopt administrative regulations to  
5       implement the provisions of subsection (1) of this section.

6   (3)   Nothing in this section shall be construed to abridge any rights or remedies provided  
7       by KRS Chapters 109 and 224, or at common law.

8       ➔Section 13.   KRS 151.293 is amended to read as follows:

9   (1)   Within sixty (60) days of completion of an on-site inspection of an existing dam,  
10       the cabinet may either grant a certificate of inspection, or deny the certificate of  
11       inspection and notify the owner in writing, stating the reasons for denial.

12   (2)   In deciding whether or not a certificate of inspection should be issued, the cabinet  
13       shall take into account all pertinent facts and conditions, but shall not issue a  
14       certificate unless the following conditions have been met:

15       (a)   The proposed action in the judgment of the cabinet will be conducted in such  
16           a way that the safety of the public is adequately provided for;

17       (b)   All information requested by the cabinet has been provided; and

18       (c)   The changed flow of the stream or level of the reservoir will not significantly  
19       interfere with a beneficial use by other water users.

20   (3)   In granting a certificate of inspection, the cabinet may impose such conditions  
21       relating to the inspection, operation, maintenance, alteration, repair, use, or control  
22       of a dam or reservoir as it determines are necessary for the protection of public  
23       health, safety or welfare.

24   (4)   The cabinet may establish hazard categories for dams based on downstream  
25       floodplain use, size, or type of dam, or other criteria, and may impose different  
26       conditions or types of conditions on the approval of dams or reservoirs in the  
27       different categories. The hazard categories in all cases shall be based only on the



1 actual risk imposed by the dam.

2 (5) The cabinet may utilize the results and information provided by or for the United  
3 States Army Corps of Engineers pursuant to the provisions of Public Law 92-367 if  
4 the information is not more than one (1) year old at the time of use.

5 (6) Certificates of inspection shall be for a definite period of time, not to exceed five (5)  
6 years, as determined by the cabinet and stated on the certificate. In determining the  
7 period of inspection, the cabinet may take account of any circumstances pertinent to  
8 the situation, including, but not limited to, the size and type of dam, topography,  
9 geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in  
10 the floodplain downstream from the dam, and the hazard category of the dam.

11 (7) The cabinet may modify a certificate of inspection or the conditions attached to it.  
12 Such modification shall become effective ninety (90) days following issuance by the  
13 cabinet of a revised certificate, except when the cabinet finds that a state of  
14 emergency exists and that life or property would be endangered by delay. In case of  
15 an emergency declared by the cabinet, the new conditions shall be effective  
16 immediately.

17 (8) Specific guidelines for issuance and renewal of certificate of inspection for earth  
18 embankment dams shall be provided by administrative regulations which shall  
19 address at least the following areas:

20 (a) The hydraulic capacity requirements for each category of dam shall be  
21 provided. The probable maximum precipitation as determined by the United  
22 States Weather Service shall be used only where it can be clearly  
23 demonstrated that failure of the dam by overtopping would result in greater  
24 loss of life than would occur if the dam did not exist and only for small  
25 watersheds, since such large rainfall events are not expected to occur over  
26 large areas. The cabinet shall provide a table of factors that reduce this rainfall  
27 appropriately for larger watersheds;

- 1 (b) Minimum criteria for the embankment stability of the dam, including  
2 consideration of such factors as steepness of slopes, strength of materials, and  
3 earthquake loadings shall be specified;
- 4 (c) Variance procedures for applicable hydraulic and stability considerations shall  
5 be included for, but not limited to, variances to hydraulic criteria where only a  
6 small number of persons are at risk and where a reliable, effective emergency  
7 preparedness system will be installed; where a risk analysis demonstrates that  
8 at rainfall levels less than that specified in the administrative regulation there  
9 is no risk that actually results from the dam; where an owner can demonstrate  
10 that the dam substantially conforms to the criteria in the administrative  
11 regulation; and, for dams that pose a risk of economic damages only, where  
12 the owner provides indemnification against potential damages;
- 13 (d) Before any variance is issued, the affected public shall be notified of the  
14 cabinet's intended action and allowed to make known any objections or  
15 concerns that it might have;
- 16 (e) Whenever the owner of a dam has requested a variance and the request has not  
17 been granted or has not been granted in the manner requested, the owner or  
18 aggrieved party may petition the cabinet to have the variance request **reviewed**  
19 **and a final determination made by the cabinet**~~and the cabinet's preliminary~~  
20 ~~decision on it reviewed by an unbiased, three (3) person panel of qualified~~  
21 ~~experts to be named by the Environmental Quality Commission in~~  
22 ~~consultation with the Kentucky Water Research Institute. The panel shall~~  
23 ~~make nonbinding recommendations to the cabinet with regard to these~~  
24 ~~matters. After reviewing the recommendations, the cabinet will make a final~~  
25 ~~determination on the variance}. If not satisfied by the **final determination of**~~  
26 **the cabinet**~~[finding of the panel or the determination of the cabinet], the party~~  
27 may seek administrative remedy from the cabinet under the provisions of KRS

1 151.182;

2 (f) Items of general maintenance of a dam shall include provisions for at least the  
3 following: dams shall be mowed regularly; dams shall be free of trees and  
4 brush; animal burrows shall not be allowed on dams; slides, erosion and  
5 cracks that could pose problems to dams shall be properly repaired; action  
6 shall be taken to alleviate excessive wetness and abnormal seepage;  
7 appurtenances that are necessary for the proper operation and maintenance of  
8 the dam shall be kept in proper working condition;

9 (g) Provisions shall be made whereby the cabinet will allow for staged renovation  
10 of dams that do not meet the criteria of the administrative regulations and  
11 shall clearly identify the circumstances under which staging is allowable and  
12 set a maximum time limit that may be allowed for bringing the dam into  
13 compliance. Other provisions shall require the owner to develop and maintain  
14 an emergency action plan, to provide interim insurance, bonding or other  
15 indemnification, and on a frequent basis as specified by the cabinet, to inspect  
16 the dam and report to the cabinet the status of any facilities or conditions of  
17 concern; and

18 (h) If the cabinet has previously required a dam to be upgraded to meet a certain  
19 dam safety standard, it shall not require that the dam be upgraded again  
20 because of a change in the administrative regulation with regard to that same  
21 standard. However, if the owner proposes substantial construction on the dam  
22 or if the dam must be repaired due to indications of distress or to partial  
23 failure, the cabinet may require the owner to bring the dam into full  
24 compliance with current standards.

25 (9) The cabinet shall establish guidelines on a case-by-case basis for gravity dams and  
26 other types of dams that are unusual to the Commonwealth, and shall follow  
27 recognized engineering practice.

1 (10) Plans and specifications submitted to the cabinet shall be the responsibility of and  
2 signed by an engineer licensed by the Commonwealth and experienced in the design  
3 and construction of dams, as determined by the cabinet.

4 ➔Section 14. KRS 152.713 is amended to read as follows:

5 (1) For purposes of this section, "renewable energy" has the same meaning as in KRS  
6 154.20-400.

7 (2) The Center for Renewable Energy Research and Environmental Stewardship is  
8 hereby created as a public agency ~~and attached to the Energy and Environment~~  
9 ~~Cabinet for administrative purposes. The Energy and Environment Cabinet shall~~  
10 ~~provide consultation, coordination services, technical assistance, and staff support~~  
11 ~~to the board of directors created in subsection (4) of this section, on an as-needed~~  
12 ~~basis, and perform other necessary administrative functions until the center is~~  
13 ~~deemed fully operational. The secretary of the cabinet or his or her designee shall~~  
14 ~~coordinate the development of the center and act as the chair of the board of~~  
15 ~~directors created in subsection (4) of this section until the board is established and is~~  
16 ~~operational~~].

17 (3) The Center for Renewable Energy Research and Environmental Stewardship shall:

18 (a) Provide leadership, research, support, and policy development in renewable  
19 energy;

20 (b) Advance the goal of renewable energy;

21 (c) Promote technologies, practices, and programs that increase efficiency in  
22 energy utilization in homes, businesses, and public buildings;

23 (d) Emphasize energy policies that would result in cost-conscious, responsible  
24 development of Kentucky's energy resources and a commitment to  
25 environmental quality;

26 (e) Promote partnerships among the state's postsecondary education institutions,  
27 private industry, and nonprofit organizations to actively pursue federal

- 1 research and development resources that are dedicated to renewable energy;
- 2 (f) Promote the continued development of public-private partnerships dedicated  
3 to promoting energy efficiency through education and outreach;
- 4 (g) Establish research priorities with approval of the board of directors created in  
5 subsection (4) of this section, relating to renewable energy, and develop  
6 procedures and processes for awarding research grants to eligible recipients as  
7 defined by the board and to the extent that funding is available;
- 8 (h) Collaborate with the Department for Energy Development and Independence  
9 to avoid duplication of efforts, provide appropriate data and information, and  
10 support the implementation of Kentucky's comprehensive energy strategy; and
- 11 (i) Carry out other activities to further the efficient and environmentally  
12 responsible use of renewable energy.
- 13 (4) (a) There is hereby created a governing board of directors to provide policy  
14 direction, establish a strategic research agenda and operating policies, and  
15 provide financial and operational oversight for the Center for Renewable  
16 Energy Research and Environmental Stewardship. The initial board shall be  
17 appointed within sixty (60) days following July 15, 2008.
- 18 (b) The board shall consist of thirteen (13) members:
- 19 1. One (1) member to represent the Department for Energy Development  
20 and Independence as designated by its commissioner;
- 21 2. Three (3) members representing postsecondary education interests who  
22 shall be appointed by the Governor;
- 23 3. One (1) member to be designated by the governing body of the Kentucky  
24 Science and Technology Corporation;
- 25 4. One (1) member from an energy conservation organization who shall be  
26 appointed by the Governor;
- 27 5. The secretary of the Economic Development Cabinet or the secretary's

- 1           designee;
- 2           6. One (1) member who shall be a recognized consumer advocate to be
- 3           appointed by the Governor;
- 4           7. Three (3) members to represent companies that are focused on
- 5           renewable energy who shall be appointed by the Governor;
- 6           8. One (1) member who shall represent environmental interests to be
- 7           appointed by the Governor; and
- 8           9. One (1) member who shall be selected to represent local government
- 9           interests to be appointed by the Governor.
- 10          (c) The members appointed by the Governor shall serve two (2) year terms and
- 11          may be reappointed. The members representing specific agencies shall serve
- 12          for as long as the respective agencies determine appropriate.
- 13          (5) The board shall:
- 14               (a) Adopt operating procedures, including a meeting schedule;
- 15               (b) Meet at least quarterly;
- 16               (c) Select a chair and co-chair annually who may be reelected, not to exceed three
- 17               (3) consecutive terms;
- 18               (d) Establish working groups or subcommittees of the board as the board
- 19               determines is needed;
- 20               (e) Establish qualifications and job descriptions, set the compensation and
- 21               benefits, and employ staff as it determines necessary to carry out its
- 22               responsibilities under this section; and
- 23               (f) Provide an annual program and financial report to the Legislative Research
- 24               Commission within ninety (90) days of the close of each fiscal year.

25          ➔Section 15. KRS 154.47-005 is amended to read as follows:

26          As used in this subchapter, unless the context clearly indicates otherwise:

- 27          (1) "Approved network" means a flexible manufacturing network approved by the

- 1 cabinet in accordance with KRS 154.47-040;
- 2 (2) "Cabinet" means the Cabinet for Economic Development;
- 3 (3) "Center" means the Quicksand Wood Utilization Center located in Breathitt County,  
4 Kentucky;
- 5 (4) "Certified tree farmer" means a person whose tree farm is certified by the Kentucky  
6 Tree Farm Committee and approved by the American Forest Foundation;
- 7 (5) ~~["Council" means the Kentucky Forest Products Council as created in KRS 154.47-~~  
8 ~~110;~~
- 9 ~~(6)~~ "Flexible manufacturing network" or "network" means an affiliation of secondary  
10 wood products businesses as provided by KRS 154.47-040;
- 11 ~~(6)~~~~(7)~~ "Forest steward" means a person whose forest property is certified as a  
12 stewardship forest and approved by the Division of Forestry of the Department for  
13 Natural Resources;
- 14 ~~(7)~~~~(8)~~ "Procurement area" means an area specified by the applicant in a radius of  
15 miles from the applicant's site of operations from which the applicant acquires raw  
16 wood products;
- 17 ~~(8)~~~~(9)~~ "Secondary wood products industry" means businesses that compose that  
18 segment of the forest products industry that manufacture, assemble, process, or  
19 produce wood into a finished or semifinished product; however, the "secondary  
20 wood products industry" does not include primary wood products operations such as  
21 logging, sawmilling, chip milling, veneer milling, or pulp milling. Businesses that  
22 include both primary and secondary wood products operations are deemed to be  
23 within the secondary wood products industry only in regard to their secondary wood  
24 products operations; and
- 25 ~~(9)~~~~(10)~~ "Wood industry hub" or "hub" means a system in which the technical and  
26 workforce training needs of the secondary wood products industry are integrated.
- 27 ➔Section 16. KRS 154.20-170 is amended to read as follows:

1 (1) Industrial entities, agricultural business entities, business enterprises, or private  
2 sector firms which are members of a business network within the meaning of KRS  
3 154.1-010 in a targeted industrial sector as set forth in the state strategic plan for  
4 economic development as prescribed in KRS 154.10-120, and businesses that  
5 compose the secondary wood products industry as defined in KRS 154.47-  
6 005~~(8)~~~~(9)~~, shall be given priority consideration under state economic development  
7 loan, grant, and incentive programs administered by the Kentucky Economic  
8 Development Finance Authority.

9 (2) Notwithstanding the provisions of subsection (1) of this section, highest priority  
10 consideration under state economic development loan, grant, and incentive  
11 programs administered by the authority shall be given to those projects that are  
12 located in counties of Kentucky which have had an average countywide rate of  
13 unemployment of fifteen percent (15%) or greater in the most recent twelve (12)  
14 consecutive months for which unemployment figures are available, on the basis of  
15 the final unemployment figures calculated by the Office of Employment and  
16 Training within the Department of Workforce Investment in the Education and  
17 Workforce Development Cabinet.

18 ➔Section 17. KRS 224.10-022 is amended to read as follows:

19 There is established in the Office of the Secretary an Office of Administrative Hearings  
20 and an Office of Legislative and Intergovernmental Affairs. Each of these offices shall be  
21 headed by an executive director appointed by the secretary with the approval of the  
22 Governor as required by KRS 12.050. There is also established in the Office of the  
23 Secretary an Office of General Counsel, headed by a general counsel appointed by the  
24 secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.  
25 The executive directors and the general counsel shall be directly responsible to the  
26 secretary and shall perform the functions, powers, and duties as provided by law and as  
27 prescribed by the secretary. ~~[The Environmental Quality Commission, which shall be~~



1 ~~headed by an executive director appointed by the secretary with the approval of the~~  
2 ~~Governor, shall be attached to the Office of the Secretary.]~~ The Kentucky State Nature  
3 Preserves Commission, which shall be headed by a director, and the Mine Safety Review  
4 Commission, whose members shall be appointed by the Governor with the consent of the  
5 General Assembly, shall be attached to the Office of the Secretary. The Kentucky Public  
6 Service Commission, which shall be headed by an executive director appointed by the  
7 commission in accordance with KRS 278.100, shall be attached to the Office of the  
8 Secretary for administrative purposes.

9       ➔Section 18. KRS 224.1-010 is amended to read as follows:

10 As used in this chapter unless the context clearly indicates otherwise:

11 (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other  
12 particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or  
13 any combination thereof;

14 (2) "Air contaminant source" means any and all sources of emission of air  
15 contaminants, whether privately or publicly owned or operated. Without limiting  
16 the generality of the foregoing, this term includes all types of business, commercial  
17 and industrial plants, works, shops, and stores, and heating and power plants and  
18 stations, buildings and other structures of all types, including single and multiple  
19 family residences, apartments, houses, office buildings, public buildings, hotels,  
20 restaurants, schools, hospitals, churches, and other institutional buildings,  
21 automobiles, trucks, tractors, buses and other motor vehicles, garages and vending  
22 and service locations and stations, railroad locomotives, ships, boats and other  
23 waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor  
24 and outdoor), refuse dumps and piles, and all stack and other chimney outlets from  
25 any of the foregoing;

26 (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air  
27 contaminants in sufficient quantities and of such characteristics and duration as is or

1 threatens to be injurious to human, plant, or animal life, or to property, or which  
2 unreasonably interferes with the comfortable enjoyment of life or property;

3 (4) "Closure" means the time at which a waste treatment, storage, or disposal facility  
4 permanently ceases to accept wastes, and includes those actions taken by the owner  
5 or operator of the facility to prepare the site for post-closure monitoring and  
6 maintenance or to make it suitable for other uses;

7 (5) ~~["Commission" means the Environmental Quality Commission;~~

8 ~~(6) ]~~ "Compost" means solid waste which has undergone biological decomposition of  
9 organic matter, been disinfected using composting or similar technologies, been  
10 stabilized to a degree which is potentially beneficial to plant growth and which is  
11 approved for use or sale as a soil amendment, artificial topsoil, growing medium  
12 amendment, or other similar uses;

13 ~~(7)~~ "Composting" means the process by which biological decomposition of  
14 organic solid waste is carried out under controlled aerobic conditions, and which  
15 stabilizes the organic fraction into a material which can easily and safely be stored,  
16 handled, and used in an environmentally acceptable manner:

17 (a) "Composting" may include a process which creates an anaerobic zone within  
18 the composting material;

19 (b) "Composting" does not include simple exposure of solid waste under  
20 uncontrolled conditions resulting in natural decay;

21 ~~(8)~~ "Demonstration" means the initial exhibition of a new technology, process or  
22 practice or a significantly new combination or use of technologies, processes or  
23 practices, subsequent to the development stage, for the purpose of proving  
24 technological feasibility and cost effectiveness;

25 ~~(9)~~ "Cabinet" means the Energy and Environment Cabinet;

26 ~~(10)~~ "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking,  
27 or placing of any waste into or on any land or water so that such waste or any

1 constituent thereof may enter the environment or be emitted into the air or  
2 discharged into any waters, including ground waters;

3 ~~(10)~~~~(11)~~ "District" means an air pollution control district as provided for in KRS  
4 Chapter 77;

5 ~~(11)~~~~(12)~~ "Effluent limitations" means any restrictions or prohibitions established under  
6 state law which include, but are not limited to, effluent limitations, standards of  
7 performance for new sources, and toxic effluent standards on quantities, rates, and  
8 concentrations of chemical, physical, biological, and other constituents which are  
9 discharged into waters;

10 ~~(12)~~~~(13)~~ "Generator" means any person, by site, whose act or process produces waste;

11 ~~(13)~~~~(14)~~ "Materials recovery facility" means a solid waste management facility that  
12 provides for the extraction from solid waste of recyclable materials, materials  
13 suitable for use as a fuel or soil amendment, or any combination of those materials;

14 ~~(14)~~~~(15)~~ "Municipal solid waste disposal facility" means any type of waste site or  
15 facility where the final deposition of any amount of municipal solid waste occurs,  
16 whether or not mixed with or including other waste allowed under Subtitle D of the  
17 Federal Resource Conservation and Recovery Act of 1976, as amended, and  
18 includes, but is not limited to, incinerators and waste-to-energy facilities that burn  
19 municipal solid waste, and contained and residential landfills, but does not include a  
20 waste site or facility which is operated exclusively by a solid waste generator on  
21 property owned by the solid waste generator which accepts only industrial solid  
22 waste from the solid waste generator or industrial solid waste generated at another  
23 facility owned and operated by the generator or wholly-owned subsidiary, or a  
24 medical waste incinerator which is owned, operated, and located on the property of  
25 a hospital or university which is regulated by the cabinet and used for the purpose of  
26 treatment, prior to landfill, of medical waste received from the generator exclusively  
27 or in combination with medical waste generated by professionals or facilities

1 licensed or regulated or operated by the Commonwealth;

2 ~~(15)~~~~(16)~~ "Municipal solid waste reduction" means source reduction, waste  
3 minimization, reuse, recycling, composting, and materials recovery;

4 ~~(16)~~~~(17)~~ "Person" means an individual, trust, firm, joint stock company, corporation  
5 (including a government corporation), partnership, association, federal agency, state  
6 agency, city, commission, political subdivision of the Commonwealth, or any  
7 interstate body;

8 ~~(17)~~~~(18)~~ "Post-closure monitoring and maintenance" means the routine care,  
9 maintenance, and monitoring of a solid waste or hazardous waste treatment, storage,  
10 or disposal facility following closure of the facility;

11 ~~(18)~~~~(19)~~ "Publicly owned treatment works" means any device or system used in the  
12 treatment (including recycling and recovery) of municipal sewage or industrial  
13 wastes of a liquid nature which is owned by the Commonwealth or a political  
14 subdivision of the Commonwealth;

15 ~~(19)~~~~(20)~~ "Recovered material" means those materials, including but not limited to  
16 compost, which have known current use, reuse, or recycling potential, which can be  
17 feasibly used, reused, or recycled, and which have been diverted or removed from  
18 the solid waste stream for sale, use, reuse, or recycling, whether or not requiring  
19 subsequent separation and processing, but does not include materials diverted or  
20 removed for purposes of energy recovery or combustion except refuse-derived fuel  
21 (RDF), which shall be credited as a recovered material in an amount equal to that  
22 percentage of the municipal solid waste received on a daily basis at the processing  
23 facility and processed into RDF; but not to exceed fifteen percent (15%) of the total  
24 amount of the municipal solid waste received at the processing facility on a daily  
25 basis. Notwithstanding any provision of law to the contrary, tire-derived fuel, as  
26 defined in subsection (54) of this section, shall be considered a recovered material;

27 ~~(20)~~~~(21)~~ "Recovered material processing facility" means a facility engaged solely in the

1 storage, processing, and resale or reuse of recovered material, but does not mean a  
2 solid waste management facility if solid waste generated by a recovered material  
3 processing facility is managed pursuant to this chapter and administrative  
4 regulations adopted by the cabinet;

5 ~~(21)~~~~(22)~~ "Recycling" means any process by which materials which would otherwise  
6 become solid waste are collected, separated, or processed and reused or returned to  
7 use in the form of raw materials or products, including refuse-derived fuel when  
8 processed in accordance with administrative regulations established by the cabinet,  
9 but does not include the incineration or combustion of materials for the recovery of  
10 energy;

11 ~~(22)~~~~(23)~~ "Refuse-derived fuel" means a sized, processed fuel product derived from the  
12 extensive separation of municipal solid waste, which includes the extraction of  
13 recoverable materials for recycling and the removal of nonprocessables such as dirt  
14 and gravel prior to processing the balance of the municipal solid waste into the  
15 refuse-derived fuel product;

16 ~~(23)~~~~(24)~~ "Secretary" means the secretary of the Energy and Environment Cabinet;

17 ~~(24)~~~~(25)~~ "Sewage system" means individually or collectively those constructions or  
18 devices used for collecting, pumping, treating, and disposing of liquid or  
19 waterborne sewage, industrial wastes, or other wastes;

20 ~~(25)~~~~(26)~~ "Termination" means the final actions taken by the cabinet as to a solid waste  
21 or hazardous waste treatment, storage, or disposal facility when formal  
22 responsibilities for post-closure monitoring and maintenance cease;

23 ~~(26)~~~~(27)~~ "Waste site or facility" means any place where waste is managed, processed,  
24 or disposed of by incineration, landfilling, or any other method, but does not include  
25 a container located on property where solid waste is generated and which is used  
26 solely for the purpose of collection and temporary storage of that solid waste prior  
27 to off-site disposal, or a recovered material processing facility, or the combustion of

1 processed waste in a utility boiler;

2 ~~(27)~~~~(28)~~ "Storage" means the containment of wastes, either on a temporary basis or for  
3 a period of years, in such a manner as not to constitute disposal of such wastes;

4 ~~(28)~~~~(29)~~ "Transportation" means any off-site movement of waste by any mode, and any  
5 loading, unloading, or storage incidental thereto;

6 ~~(29)~~~~(30)~~ "Treatment" means any method, technique, or process, including  
7 neutralization, designed to change the physical, chemical, or biological character or  
8 composition of any waste so as to neutralize such waste or so as to render such  
9 waste nonhazardous, safer for transport, amenable for recovery, amenable for  
10 storage, or reduced in volume. Such term includes any activity or processing  
11 designed to change the physical form or chemical composition of hazardous waste  
12 so as to render it nonhazardous;

13 ~~(30)~~~~(31)~~ "Waste" means:

14 (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material,  
15 including solid, liquid, semi-solid, or contained gaseous material resulting  
16 from industrial, commercial, mining (excluding coal mining wastes, coal  
17 mining by-products, refuse, and overburden), agricultural operations, and from  
18 community activities, but does not include those materials including, but not  
19 limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a  
20 public road construction project funded wholly or in part with state funds,  
21 recovered material, tire-derived fuel, special wastes as designated by KRS  
22 224.50-760, solid or dissolved material in domestic sewage, manure, crops,  
23 crop residue, or a combination thereof which are placed on the soil for return  
24 to the soil as fertilizers or soil conditioners, or solid or dissolved material in  
25 irrigation return flows or industrial discharges which are point sources subject  
26 to permits under Section 402 of the Federal Water Pollution Control Act, as  
27 amended (86 Stat. 880), or source, special nuclear, or by-product material as

1 defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

2 1. "Household solid waste" means solid waste, including garbage and trash  
3 generated by single and multiple family residences, hotels, motels,  
4 bunkhouses, ranger stations, crew quarters, and recreational areas such  
5 as picnic areas, parks, and campgrounds, but it does not include tire-  
6 derived fuel;

7 2. "Commercial solid waste" means all types of solid waste generated by  
8 stores, offices, restaurants, warehouses, and other service and  
9 nonmanufacturing activities, excluding tire-derived fuel and household  
10 and industrial solid waste;

11 3. "Industrial solid waste" means solid waste generated by manufacturing  
12 or industrial processes that is not a hazardous waste or a special waste as  
13 designated by KRS 224.50-760, including, but not limited to, waste  
14 resulting from the following manufacturing processes: electric power  
15 generation; fertilizer or agricultural chemicals; food and related products  
16 or by-products; inorganic chemicals; iron and steel manufacturing;  
17 leather and leather products; nonferrous metals manufacturing/foundries;  
18 organic chemicals; plastics and resins manufacturing; pulp and paper  
19 industry; rubber and miscellaneous plastic products, except tire-derived  
20 fuel; stone, glass, clay, and concrete products; textile manufacturing;  
21 transportation equipment; and water treatment; and

22 4. "Municipal solid waste" means household solid waste and commercial  
23 solid waste; and

24 (b) "Hazardous waste" means any discarded material or material intended to be  
25 discarded or substance or combination of such substances intended to be  
26 discarded, in any form which because of its quantity, concentration or  
27 physical, chemical or infectious characteristics may cause, or significantly

1 contribute to an increase in mortality or an increase in serious irreversible, or  
2 incapacitating reversible, illness or pose a substantial present or potential  
3 hazard to human health or the environment when improperly treated, stored,  
4 transported, or disposed of, or otherwise managed;

5 (31)~~(32)~~ "Waste management district" means any county or group of counties electing  
6 to form under the provisions of KRS Chapter 109 and operate in conformance with  
7 the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation  
8 and Recovery Act of 1976, as amended (Public Law 94-580);

9 (32)~~(33)~~ "Water" or "waters of the Commonwealth" means and includes any and all  
10 rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells,  
11 marshes, and all other bodies of surface or underground water, natural or artificial,  
12 situated wholly or partly within or bordering upon the Commonwealth or within its  
13 jurisdiction;

14 (33)~~(34)~~ "Water pollution" means the alteration of the physical, thermal, chemical,  
15 biological, or radioactive properties of the waters of the Commonwealth in such a  
16 manner, condition, or quantity that will be detrimental to the public health or  
17 welfare, to animal or aquatic life or marine life, to the use of such waters as present  
18 or future sources of public water supply or to the use of such waters for recreational,  
19 commercial, industrial, agricultural, or other legitimate purposes;

20 (34)~~(35)~~ "Pollutant" means and includes dredged spoil, solid waste, incinerator residue,  
21 sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat,  
22 wrecked or discarded equipment, rock, sand, soil, industrial, municipal or  
23 agricultural waste, and any substance resulting from the development, processing,  
24 or recovery of any natural resource which may be discharged into water;

25 (35)~~(36)~~ "NPDES" means National Pollutant Discharge Elimination System;

26 (36)~~(37)~~ "Manifest" means the form used for identifying the quantity, composition, and  
27 the origin, routing, and destination of waste during its transportation from the point



1 of generation to the point of disposal, treatment, or storage;

2 ~~(37)~~~~(38)~~ "Open dump" means any facility or site for the disposal of solid waste which  
3 does not have a valid permit issued by the cabinet or does not meet the  
4 environmental performance standards established under regulations promulgated by  
5 the cabinet;

6 ~~(38)~~~~(39)~~ "Solid waste management" means the administration of solid waste activities:  
7 collection, storage, transportation, transfer, processing, treatment, and disposal,  
8 which shall be in accordance with a cabinet-approved county or multicounty solid  
9 waste management plan;

10 ~~(39)~~~~(40)~~ "Solid waste management area" or "area" means any geographical area  
11 established or designated by the cabinet in accordance with the provisions of this  
12 chapter;

13 ~~(40)~~~~(41)~~ "Solid waste management facility" means any facility for collection, storage,  
14 transportation, transfer, processing, treatment, or disposal of solid waste, whether  
15 such facility is associated with facilities generating such wastes or otherwise, but  
16 does not include a container located on property where solid waste is generated and  
17 which is used solely for the purpose of collection and temporary storage of that  
18 solid waste prior to off-site disposal, or a recovered material processing facility  
19 which is subject to regulation pursuant to the chapter for control of environmental  
20 impacts and to prevent any public nuisance;

21 ~~(41)~~~~(42)~~ "Hazardous constituent" shall conform to the requirements of the Resource  
22 Conservation and Recovery Act (RCRA), as amended;

23 ~~(42)~~~~(43)~~ "Land disposal" includes but is not limited to any placement of hazardous  
24 waste in a landfill, surface impoundment, waste pile, injection well, land treatment  
25 facility, salt dome formation, salt bed formation, or underground mine or cave;

26 ~~(43)~~~~(44)~~ "Key personnel" means an officer, partner, director, manager, or shareholder  
27 of five percent (5%) or more of stock or financial interest in a corporation,

1 partnership, or association or parent, subsidiary, or affiliate corporation and its  
2 officers, directors, or shareholders of five percent (5%) or more of stock or financial  
3 interest;

4 ~~(44)~~~~(45)~~ "Universal collection" means a municipal solid waste collection system which  
5 is established by ordinance and approved by the cabinet and requires access for each  
6 household or solid waste generator in a county. A commercial or industrial entity  
7 which transports or contracts for the transport of the municipal solid waste it  
8 generates or which operates a solid waste management facility for its exclusive use  
9 may be excluded from participation;

10 ~~(45)~~~~(46)~~ "Governing body" means a county, a waste management district, an entity  
11 created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant  
12 to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the  
13 provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to  
14 KRS 109.082;

15 ~~(46)~~~~(47)~~ "Convenience center" means a facility that is manned during operating hours  
16 for the collection and subsequent transportation of municipal solid wastes;

17 ~~(47)~~~~(48)~~ "Transfer facility" means any transportation related facility including loading  
18 docks, parking areas, and other similar areas where shipments of solid waste are  
19 held or transferred during the normal course of transportation;

20 ~~(48)~~~~(49)~~ "Collection box" means an unmanned receptacle utilized to collect municipal  
21 solid waste;

22 ~~(49)~~~~(50)~~ "Newsprint" means that class or kind of paper chiefly used for printing  
23 newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but  
24 less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet  
25 by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and  
26 twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);

27 ~~(50)~~~~(51)~~ "Postconsumer waste paper" means discarded paper after it has served its

1 intended use by a publisher;

2 ~~(51)~~~~(52)~~ "Publisher" means a person engaged in the business of publishing newspapers,  
3 advertisement flyers, telephone books, and other printed material;

4 ~~(52)~~~~(53)~~ "Recycled content" means the proportion of fiber in newsprint that is derived  
5 from postconsumer waste paper;

6 ~~(53)~~~~(54)~~ "Tire-derived fuel" or "TDF" means a product made from waste tires to the  
7 exact specifications of a system designed to accept tire-derived fuel as a primary or  
8 supplemental fuel source, that have been reduced to particle sizes not greater than  
9 two (2) inches by two (2) inches and that is destined for transportation from the  
10 waste tire processor for use as a fuel. "Tire-derived fuel" shall not mean refuse-  
11 derived fuel; and

12 ~~(54)~~~~(55)~~ "Industrial energy facility" means a facility that produces transportation fuels,  
13 synthetic natural gas, chemicals, or electricity through a gasification process using  
14 coal, coal waste, or biomass resources, and costing in excess of seven hundred fifty  
15 million dollars (\$750,000,000) at the time of construction.

16 ➔Section 19. KRS 224.70-120 is amended to read as follows:

17 (1) As used in this section, "cabinet" shall mean the Energy and Environment Cabinet.

18 (2) An applicant for a permit to discharge pollutants into waters of the Commonwealth  
19 shall be subject to a permit~~[filing]~~ fee by the cabinet~~[ in the amount of twenty~~  
20 ~~percent (20%) of the discharge permit fee].~~

21 ~~[An applicant for a permit to discharge pollutants into waters of the Commonwealth~~  
22 ~~shall be subject to a discharge permit fee by the cabinet upon receiving the cabinet's~~  
23 ~~determination that the permit will be issued and.]~~The permit fee shall be equal to  
24 the cost of review but shall not exceed the following amounts:

25 (a) Major industry: three thousand two hundred dollars (\$3,200);

26 (b) Minor industry: two thousand one hundred dollars (\$2,100);

27 (c) Nonprocess industry: one thousand dollars (\$1,000);

- 1 (d) Large, non-publicly-owned treatment works: one thousand seven hundred  
2 dollars (\$1,700);
- 3 (e) Intermediate, non-publicly-owned treatment works: one thousand five  
4 hundred dollars (\$1,500);
- 5 (f) Small, non-publicly-owned treatment works: one thousand dollars (\$1,000);
- 6 (g) Agriculture: one thousand two hundred dollars (\$1,200); and
- 7 (h) Surface mining operation: one thousand two hundred dollars (\$1,200).

8 (4) The cabinet may impose the maximum permit fee if a discharge falls into multiple  
9 categories.

10 ➔Section 20. KRS 189.450 is amended to read as follows:

11 (1) No person shall stop a vehicle, leave it standing, or cause it to stop or to be left  
12 standing upon any portion of the roadway; provided, however, that this section shall  
13 not be construed to prevent parking in front of a private residence off the roadway  
14 or street in a city or suburban area where such parking is otherwise permitted, as  
15 long as the vehicle so parked does not impede the flow of traffic. This subsection  
16 shall not apply to:

17 (a) A vehicle that has been disabled on the right-of-way of such a highway in  
18 such a manner and to such extent that it is impossible to avoid the occupation  
19 of the shoulder of a state-maintained highway or impracticable to remove it  
20 from the shoulder of the highway until repairs have been made or sufficient  
21 help obtained for its removal. In no event shall a disabled vehicle remain on  
22 the shoulder of a state-maintained highway for twenty-four (24) hours or  
23 more;

24 (b) Motor vehicles when required to stop in obedience to the provisions of any  
25 section of the Kentucky Revised Statutes or any traffic ordinance, regulation,  
26 or sign or the command of any peace officer;

27 (c) Vehicles operating as common carriers of passengers for hire and school buses

1 taking passengers on such vehicle or discharging passengers therefrom;  
2 provided, that no such vehicle shall stop for such purposes at a place on the  
3 highway which does not afford reasonable visibility to approaching motor  
4 vehicles from both directions;

5 (d) Vehicles which are stopped for a period of not more than fifteen (15) minutes  
6 at a time for the purpose of collecting and transporting solid waste as defined  
7 in KRS 224.1-010(30)~~[(31)]~~(a), and which are operated by a:

- 8 1. Collection service registered in accordance with KRS 224.43-315; or
- 9 2. Person or organization actively participating in the Adopt-a-Highway  
10 Program; or

11 (e) Any vehicle required to stop by reason of an obstruction to its progress.

12 (2) When any police officer finds a vehicle standing upon such a highway in violation  
13 of this section, he may move or cause to be moved the vehicle or require the  
14 operator or other person in charge of the vehicle to move it. The police officer may  
15 cause the vehicle to be removed by ordering any person engaged in the business of  
16 storing or towing motor vehicles to remove the vehicle to a site chosen by such  
17 person. Ownership of the vehicle shall be determined by the police officer's  
18 enforcement agency through the vehicle's license plates, serial number, or other  
19 means of determining ownership. As soon as practicable, the police officer's  
20 enforcement agency shall notify the owner by mail that the vehicle was illegally  
21 upon public property; the name and address of the storage facility where the vehicle  
22 is located; that removal of the vehicle from the storage facility will involve payment  
23 of towing and storage charges; and that the vehicle may be sold pursuant to the  
24 provisions of KRS 376.275 if not claimed within sixty (60) days. No notification  
25 shall be required if ownership cannot be determined. In the event of a sale pursuant  
26 to KRS 376.275, the state shall receive any proceeds after the satisfaction of all  
27 liens placed on the vehicle.

1 (3) No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll  
2 road, interstate highway, or other fully controlled access highway, including ramps  
3 thereto, nor shall any vehicle registered at a gross weight of over forty-four  
4 thousand (44,000) pounds be parked, stopped, or allowed to stand on the shoulders  
5 of any state-maintained highway, except that, in the case of emergency or in  
6 response to a peace officer's signal, vehicles shall be permitted to stop on the  
7 shoulders to the right of the traveled way with all wheels and projecting parts of the  
8 vehicles, including the load, completely clear of the traveled way. Parking of any  
9 vehicle which is disabled on the shoulders of a toll road, interstate highway, other  
10 fully controlled access highway, including ramps thereto, or any state-maintained  
11 highway not mentioned in this section for twenty-four (24) hours continuously is  
12 prohibited and vehicles violating this provision may be towed away at the cost of  
13 the owner.

14 (4) When any police officer finds a vehicle unattended upon any bridge or causeway or  
15 in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may  
16 provide for the removal of the vehicle to the nearest garage or other place of safety  
17 as provided in subsection (2) of this section.

18 (5) No person shall stop or park a vehicle except when necessary to avoid conflict with  
19 other traffic or in compliance with the directions of a police officer or traffic control  
20 device, in the following places:

21 (a) On a sidewalk;

22 (b) In front of sidewalk ramps provided for persons with disabilities;

23 (c) In front of a public or private driveway;

24 (d) Within an intersection or on a crosswalk;

25 (e) At any place where official signs prohibit stopping or parking;

26 (f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or  
27 traffic control signal located at the side of a roadway;

- 1 (g) On any controlled access highway;
- 2 (h) Within a highway tunnel;
- 3 (i) Within fifteen (15) feet of a fire hydrant; or
- 4 (j) In an area between the roadways of a divided highway.

5 (6) No person shall move a vehicle not lawfully under his control into any such  
6 prohibited area.

7 (7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and  
8 their deputies or police officers when operating properly identified vehicles during  
9 performance of their official duties.

10 ➔Section 21. KRS 224.40-315 is amended to read as follows:

11 (1) No permit to construct or expand a municipal solid waste disposal facility shall be  
12 accepted for processing by the cabinet unless the application contains a  
13 determination from the governing body for the solid waste management area in  
14 which the facility is or will be located concerning the consistency of the application  
15 with the area solid waste management plan submitted under KRS 224.43-345(1)(a)  
16 to (d) and (l) until January 1, 1993, and the entire plan after January 1, 1993. The  
17 governing body for the area shall, within sixty (60) days of receipt of a written  
18 request, make the determination after public notice and opportunity for public  
19 comment and public hearing. For applications with a notice of intent filed prior to  
20 February 26, 1991, the cabinet shall continue to process the application but no  
21 permit shall be approved until the governing body for the solid waste management  
22 area in which the facility is or will be located has made a determination in  
23 accordance with this section.

24 (2) No permit to construct or expand a municipal solid waste disposal facility shall be  
25 approved unless the applicant affirmatively demonstrates and the cabinet makes a  
26 written finding in the preliminary determination made pursuant to KRS 224.40-  
27 310(2) that the application conforms to and is consistent with all of the following:

- 1 (a) The capacity needs identified in the area solid waste management plan;
- 2 (b) Other elements of the area solid waste management plan, for permit  
3 applications filed after approval of those elements;
- 4 (c) The statewide solid waste reduction and management plan, for permit  
5 applications filed after completion of the plan; and
- 6 (d) Applicable zoning regulations adopted pursuant to KRS Chapter 100.
- 7 (3) If the cabinet approves a permit to construct or expand a municipal solid waste  
8 management facility after the governing body for the area has determined the  
9 application to be inconsistent with the area solid waste management plan, as part of  
10 the written finding the cabinet shall state in detail the reasons why it did not accept  
11 the determination of the governing body for the area.
- 12 (4) For the purposes of this section, the term municipal solid waste disposal facility  
13 includes, in addition to those facilities defined in KRS 224.1-010(~~14~~)(~~15~~), any  
14 residual or contained landfill or incinerator disposing of industrial solid waste for a  
15 fee, but does not include a waste site or facility which is operated exclusively by a  
16 solid waste generator on property owned by the solid waste generator which accepts  
17 only industrial solid waste from the solid waste generator or industrial solid waste  
18 generated at another facility owned and operated by the generator or wholly-owned  
19 subsidiary.

20 ➔Section 22. KRS 224.50-760 is amended to read as follows:

- 21 (1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those  
22 wastes of high volume and low hazard which include but are not limited to  
23 mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), wastes  
24 from coal gasification facilities (vitrified coarse solid residues, prilled or  
25 blocked sulfur) approved by the cabinet based on submittal of appropriate  
26 testing demonstrating that the wastes are of low hazard, sludge from water  
27 treatment facilities and wastewater treatment facilities, cement kiln dust, gas



- 1 and oil drilling muds, and oil production brines. Other wastes may be  
2 designated special wastes by the cabinet;
- 3 (b) Disposal sites or facilities for special wastes shall be exempt from the  
4 provisions of KRS 224.46-520 and the provisions of KRS 224.43-810 ~~and~~  
5 224.43-815~~, and KRS 224.46-820 to 224.46-870~~ but may be regulated by the  
6 cabinet consistent with the Resource Conservation and Recovery Act of 1976,  
7 as amended (Pub. L. 94-580), and regulations issued pursuant thereto, unless  
8 the special waste received is listed or meets the criteria of a hazardous waste  
9 in regulations pursuant to KRS 224.46-510(3). If the special waste is a  
10 hazardous waste as specified in regulations pursuant to KRS 224.46-510(3),  
11 the site or facility shall be required by the cabinet to comply with the  
12 provisions of KRS 224.46-520 but shall not be subject to the requirements of  
13 KRS 224.40-310(6);
- 14 (c) Generators of special wastes shall register with the cabinet and be subject to  
15 the provisions of KRS 224.46-510, except for generators of coal mining  
16 wastes which shall be regulated pursuant to the provisions of KRS Chapter  
17 350;
- 18 (d) The cabinet shall, when promulgating regulations affecting special waste,  
19 recognize special waste as a separate and distinct indivisible category and  
20 shall recognize the distinct differences between the category of special wastes  
21 and other hazardous wastes and solid wastes as defined in KRS 224.1-  
22 010~~(30)~~~~(31)~~(a) and 109.012(9) due to the fact that special wastes have large  
23 volume but low hazardousness. The cabinet's regulations for the generation,  
24 transport, recordkeeping, reporting, treatment, storage, and disposal shall  
25 reflect those distinct differences. The cabinet's regulations shall recognize and  
26 incorporate, where appropriate, and if consistent with the policies of KRS  
27 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized

- 1 requirements for specific kinds of special wastes that are or may be  
2 undertaken at the federal or other levels of government; and
- 3 (e) It is the intent of the General Assembly that the processing of sludge from  
4 water treatment facilities and wastewater treatment facilities by composting  
5 shall be considered an industrial process. The cabinet shall, when  
6 promulgating administrative regulations affecting sludge from water treatment  
7 facilities and wastewater treatment facilities, consider the treatment of this  
8 sludge by composting as an industrial process. The provisions of this  
9 paragraph and subsection (3) of this section shall not apply to a city, county,  
10 urban-county government, charter county government, or special district as  
11 defined in KRS Chapter 65, or to a public or private college or university that  
12 processes its own water treatment or wastewater treatment sludge by  
13 composting on property owned or leased by the city, county, urban-county  
14 government, charter county government, special district, or public or private  
15 college or university.
- 16 (2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and  
17 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations  
18 pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with  
19 the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-  
20 580), and regulations issued pursuant thereto.
- 21 (3) A permit application to establish, operate, or modify a composting site or  
22 composting facility for the processing of water treatment sludge or wastewater  
23 treatment sludge, shall require immediately the general public notice provided for in  
24 KRS 224.40-310(4) and (5). If a hearing is requested, no permit to establish,  
25 operate, or modify a composting site or facility shall be issued prior to the public  
26 hearing. The hearing shall be held within the county where the composting site or  
27 facility is located or proposed. Composting of this sludge shall be considered an

1 industrial process.

2 ➔Section 23. KRS 224.50-856 is amended to read as follows:

- 3 (1) No person shall engage in disposal of waste tires in Kentucky except by transfer to a  
4 permitted solid waste disposal facility and except as follows:
- 5 (a) 1. If transferred to a contained landfill, the waste tires shall be processed to  
6 prevent the entrapment of air or water;
- 7 2. If transferred to a residual landfill, the waste tires shall be rendered  
8 suitable for disposal in a landfill and the landfill shall accept only waste  
9 tires for disposal; or
- 10 3. If transferred to an incinerator or to any facility for use as a fuel, the  
11 incinerator or other facility shall be permitted in accordance with KRS  
12 224.20-110 and 224.40-310 to allow the burning of waste tires and shall  
13 have received a local determination related to the waste tires in  
14 accordance with KRS 224.40-315(1); and
- 15 (b) Facilities proposing to use tire-derived fuel, as that term is defined in KRS  
16 224.1-010~~(53)~~~~(54)~~, as a fuel or for other energy recovery, shall not be  
17 required to receive a local determination related to the tire-derived fuel use  
18 under KRS 224.40-315(1). The Division of Air Quality shall provide for  
19 public notice and an opportunity for comment on any application seeking  
20 approval for use of tire-derived fuel.
- 21 (2) No person shall accumulate more than twenty-five (25) waste tires in Kentucky at a  
22 time for processing, by baling, chopping, recycling, shredding, or other means of  
23 changing their shape, size, or chemical content without meeting the requirements of  
24 the waste tire program. For processing which had been approved by the cabinet  
25 before July 15, 1998, the person who had received the approval shall register within  
26 forty-five (45) days of July 15, 1998.
- 27 (3) No person shall transport more than fifty (50) waste tires in Kentucky at a time,

1           either in one (1) vehicle or more than one (1) vehicle managed by or operated under  
2           contract with that person, without meeting the requirements of the waste tire  
3           program, unless transported in accordance with subsection (5) of this section.

4       (4) No person shall accumulate more than one hundred (100) waste tires in Kentucky at  
5           a time without meeting the requirements of the waste tire program, unless exempted  
6           by KRS 224.50-854 or accumulated in accordance with subsection (5) or (6) of this  
7           section. For accumulations of more than one hundred (100) tires not accumulated in  
8           accordance with subsection (5) or (6) of this section and existing on July 15, 1998,  
9           the person who has accumulated the tires shall register within forty-five (45) days of  
10          July 15, 1998.

11       (5) A person making retail sales of new motor vehicle tires in Kentucky may  
12          accumulate up to one thousand (1,000) waste tires at the place where retail sales are  
13          made without registering as an accumulator as required by KRS 224.50-858, if the  
14          waste tires are stored in accordance with the requirements of KRS 224.50-860(3),  
15          (5), (6), (7), and (8), and stored on-site in a building, in an adjacent covered area, or  
16          closed container where public access is prohibited after business hours. The retailer  
17          may transport the waste tires it accumulates at the place where retail sales are made  
18          without registering as a transporter as required by KRS 224.50-858 if the waste tires  
19          will remain in the retailer's possession until they reach their destination.

20       (6) An automotive recycling dealer in Kentucky who is licensed by the Transportation  
21          Cabinet pursuant to KRS 190.010 to 190.080 may accumulate up to one thousand  
22          (1,000) waste tires at the place where automotive recycling is done without  
23          registering as an accumulator as required by KRS 224.50-858 if the waste tires are  
24          stored in accordance with KRS 224.50-860(2) to (11) and stored on-site in a  
25          building, in an adjacent covered area, or closed container where public access is  
26          prohibited after business hours.

27       ➔Section 24. KRS 224.73-110 is amended to read as follows:

1 (1) The Kentucky Board of Certification of Wastewater System Operators is  
2 established. The board shall recommend qualified applicants to the cabinet for  
3 certification and perform ~~such~~ other acts as may be necessary to carry out the  
4 purposes of this section. Members of the board shall be appointed by the Governor.  
5 The board shall consist of eight (8) members who may have professional  
6 backgrounds as follows: one (1) employee of a municipality who holds the position  
7 of either city manager, city engineer, director of public works, or the equivalent  
8 thereof; one (1) member who is a faculty member of a college, university, or  
9 professional school whose major field is related to wastewater treatment; one (1)  
10 nonvoting ex officio member representing the cabinet; and five (5) members  
11 currently employed as operators holding valid certificates where one (1) of these  
12 five (5) shall be an operator of an industrial wastewater system. Board members  
13 shall serve for a four (4) year term, except for the first board to which two (2) of the  
14 operators will be appointed for four (4) years and three (3) for two (2) years. The  
15 first college faculty member will be appointed for two (2) years and the remaining  
16 board members will be appointed for four (4) years. The cabinet's representative  
17 shall serve as executive secretary and treasurer and be responsible for maintaining  
18 records. The members of the board shall serve without compensation but may be  
19 reimbursed for all actual and necessary expenses incurred while discharging their  
20 official duties. At least four (4) existing members of the board shall constitute a  
21 quorum.

22 (2) No person shall have primary responsibility for the operation of any sewage system  
23 or portion thereof whether publicly or privately owned unless:

24 (a) The person~~he~~ has passed an examination prescribed by the Energy and  
25 Environment Cabinet and board which shall determine the person's~~his~~ skill  
26 and competency for the~~such~~ operation and has been issued a certificate to  
27 that effect by the cabinet; or

1           **(b) The person is operating a sewage system located at the residence where the**  
2           **person lives and the sewage system serves only one (1) residence.**

- 3       (3) No person shall authorize or allow any person who does not hold a certificate issued  
4       pursuant to subsection (2) of this section to have primary responsibility for the  
5       operation of any sewage system or portion thereof.
- 6       (4) The cabinet, with the advice of the board of certification, may classify all sewage  
7       systems and portions thereof in the manner provided by the rules and regulations of  
8       the cabinet with regard to size, type, physical conditions affecting such systems or  
9       portions thereof, and the skill, knowledge and experience required for the operation  
10      of the system or portion thereof and restrict the application of any certificate issued  
11      pursuant to subsection (2) of this section to the operation of a sewage system or  
12      portion thereof of a specific class.
- 13     (5) Any person who has primary responsibility for the operation of a sewage system for  
14     a school shall be entitled to a limited certificate of competency for his particular  
15     system, provided he has demonstrated that he has the knowledge and experience  
16     required to operate properly the particular sewage system for which he is  
17     responsible. A limited certificate of competency so issued is not transferable to any  
18     other sewage system, nor is the period of operation under such a limited certificate  
19     eligible for consideration toward the experience requirements for a certificate of  
20     competency as provided in subsection (2) of this section.
- 21     (6) All applicants for the examination and certification for the operation of any sewage  
22     system or portion thereof, whether publicly or privately owned, shall pay a  
23     reasonable schedule of fees and charges fixed by regulation. The fees required under  
24     this section shall be payable to the cabinet.
- 25     (7) Operators shall have accumulated a minimum number of hours of appropriate board  
26     approved training set by regulation for certificate renewal. Such training shall  
27     include, but may not be limited to, correspondence courses, short courses, trade

1 association meetings, and on-the-job training. Training hours accumulated in any  
2 given year in excess of the minimum requirement necessary for renewal may be  
3 carried forward for a period not to exceed two (2) years.

4 (8) The board may waive any or all of the requirements of subsection (7) of this section  
5 for all or portions of an established class of operators.

6 ➔Section 25. KRS 224.80-100 is amended to read as follows:

7 As used in this subchapter:

8 (1) "Activity and use limitations" means restrictions or obligations created under KRS  
9 224.80-100 to 224.80-210.

10 (2) "Applicant" means a person applying to the cabinet for approval of an  
11 environmental covenant.

12 (3) "Cabinet" means the Energy and Environment Cabinet.

13 (4) "Common interest community" means a condominium, cooperative, or other real  
14 property owned by a person as part of a parcel of real property for which there is an  
15 obligation to pay property taxes, insurance premiums, or maintenance, or to make  
16 improvements to the real property as described and established in a recorded  
17 environmental covenant.

18 (5) "Environmental covenant" means a servitude arising under an environmental  
19 response project that imposes activity and use limitations.

20 (6) "Environmental response project" means a plan or work performed for the  
21 environmental remediation of real property conducted:

22 (a) Under a federal or state program governing environmental remediation of real  
23 property including programs established pursuant to KRS 224.1-400, 224.1-  
24 405, 224.46-530, and 224.1-450 to 224.1-465;

25 (b) Incident to closure of a solid or hazardous waste management unit, if the  
26 closure is conducted with approval of the cabinet; or

27 (c) Under a Commonwealth voluntary cleanup program authorized under KRS

1           224.1-510 to 224.1-532.

2       (7) "Holder" means the grantee of an environmental covenant.

3       (8) "Indexing" means the practice or method kept by a county clerk's office to record  
4       legal property transactions.

5       (9) "Interest" means all or part of a legal equitable claim to a right in real property  
6       which shall include both possessory and nonpossessory interests.

7       (10) "Owner" means a person that owns a fee simple interest or any other interest in real  
8       property that is subject to an environmental covenant.

9       (11) "Person" shall have the meaning specified in KRS 224.1-010~~(16)~~~~(17)~~.

10      (12) "Public notice" means the publication of required information in a daily or weekly  
11      newspaper of major circulation located in the county or counties where the property  
12      subject to the proposed environmental covenant is located. If there is no daily or  
13      weekly newspaper of major circulation in the county or counties where the property  
14      is located, public notice shall mean publication of required information in a daily or  
15      weekly newspaper of major circulation in a county adjacent to the county or  
16      counties where the property is located.

17      (13) "Subordination agreement" means an agreement affecting priority of interests in a  
18      real property that is subject to an environmental covenant.

19      (14) "Servitude" means a right, burden, or restriction on the use of real property that  
20      passes from the current owner or tenant to any owners or tenants in succession.

21      ➔Section 26. KRS 224A.011 is amended to read as follows:

22      As used in this chapter, unless the context requires otherwise:

23      (1) "Administrative fee" means a fee assessed and collected by the authority from  
24      borrowers under assistance agreements, to be used for operational expenses of the  
25      authority;

26      (2) "Applicable interest rate" means the rate of interest which shall be used as part of  
27      the repayment criteria for an assistance agreement between a governmental agency



1 and the authority, and shall be determined by the authority pertinent to the source of  
2 funds from which the assistance agreement is funded;

3 (3) "Assistance agreement" means the agreement to be made and entered into by and  
4 between a governmental agency and the authority, as authorized by this chapter,  
5 providing for a lease, loan, services, or grant to the governmental agency or for the  
6 purchase of obligations issued by the governmental agency, and for the repayment  
7 thereof to the authority by the governmental agency;

8 (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this  
9 chapter;

10 (5) "Authority revenues" means the totality of all:

11 (a) Service charges;

12 (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the  
13 authority during any fiscal period of the authority;

14 (c) Any gifts, grants, or loans received, to the extent not otherwise required to be  
15 applied;

16 (d) Any and all appropriations made to the authority by the General Assembly of  
17 the Commonwealth of Kentucky, to the extent not otherwise required to be  
18 applied;

19 (e) All moneys received in repayment of and for interest on any loans made by the  
20 authority to a governmental agency, except as provided in KRS 224A.111,  
21 224A.1115, and 224A.112, or as principal of and interest on any obligations  
22 issued by a governmental agency and purchased by the authority, or as receipts  
23 under any assistance agreement;

24 (f) The proceeds of bonds or long-term debt obligations of governmental  
25 agencies pledged to the payment of bond anticipation notes issued by the  
26 authority on behalf of the said governmental agency to provide interim  
27 construction financing; and

- 1 (g) Payments under agreements with any agencies of the state and federal  
2 government;
- 3 (6) "Borrower or borrowing entity" means any agency of the state or its political  
4 subdivisions, any city, or any special district created under the laws of the state  
5 acting individually or jointly under interagency or interlocal cooperative agreements  
6 to enter into assistance agreements with the authority;
- 7 (7) "Community flood damage abatement project" means any structural or nonstructural  
8 study, plan, design, construction, development, improvement, or other activity to  
9 provide for flood control;
- 10 (8) "Construction" means and includes but is not limited to:
- 11 (a) Preliminary planning to determine the economic and engineering feasibility of  
12 infrastructure projects, the engineering, architectural, legal, fiscal, and  
13 economic investigations, and studies necessary thereto, and surveys, designs,  
14 plans, working drawings, specifications, procedures, and other actions  
15 necessary to the construction of infrastructure or solid waste projects;
- 16 (b) The erection, building, acquisition, alteration, remodeling, improvement, or  
17 extension of infrastructure or solid waste projects; and
- 18 (c) The inspection and supervision of the construction of infrastructure or solid  
19 waste projects and all costs incidental to the acquisition and financing of  
20 same. This term shall also relate to and mean any other physical devices or  
21 appurtenances in connection with, or reasonably attendant to, infrastructure or  
22 solid waste projects;
- 23 (9) "Dams" means any artificial barrier, including appurtenant works, which does or  
24 can impound or divert water, and which either:
- 25 (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the  
26 stream or watercourse at the downstream toe of the barrier, as determined by  
27 the Energy and Environment Cabinet; or

- 1 (b) Has or will have an impounding capacity at maximum water storage elevation  
2 of fifty (50) acre feet or more;
- 3 (10) "Distribution facilities" means all or any part of any facilities, devices, and systems  
4 used and useful in obtaining, pumping, storing, treating, and distributing water for  
5 agricultural, industrial, commercial, recreational, public, and domestic use;
- 6 (11) "Energy and Environment Cabinet" means the Kentucky Energy and Environment  
7 Cabinet, or its successor, said term being meant to relate specifically to the state  
8 agency which is designated as the water pollution agency for the Commonwealth of  
9 Kentucky, for purposes of the federal act;
- 10 (12) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as  
11 said federal act may be amended from time to time in the future, or any other  
12 enactment of the United States Congress providing funds that may assist in carrying  
13 out the purposes of the authority;
- 14 (13) "Federally assisted wastewater revolving fund" means that fund which will receive  
15 federal and state funds or the proceeds from the sale of revenue bonds of the  
16 authority for the purpose of providing loans to finance construction of publicly  
17 owned treatment works as defined in Section 212 of the federal act and for the  
18 implementation of a management program established under Section 319 of the  
19 federal act and for the development and implementation of a conservation and  
20 management plan under Section 320 of the federal act;
- 21 (14) "Governmental agency" means any incorporated city or municipal corporation, or  
22 other agency, or unit of government within or a department or a cabinet of the  
23 Commonwealth of Kentucky, now having or hereafter granted, the authority and  
24 power to finance, acquire, construct, or operate infrastructure or solid waste  
25 projects. This definition shall specifically apply but not by way of limitation to  
26 incorporated cities; counties, including any counties containing a metropolitan  
27 sewer district; sanitation districts; water districts; water associations if these

- 1 associations are permitted to issue interest-bearing obligations which interest would  
2 be excludable from gross income under Section 103 of the Internal Revenue Code  
3 of 1986 as amended; sewer construction districts; metropolitan sewer districts;  
4 sanitation taxing districts; a regional wastewater commission established under  
5 KRS 65.8901 to 65.8923; and any other agencies, commissions, districts, or  
6 authorities (either acting alone, or in combination with one another in accordance  
7 with any regional or area compact, or intergovernmental cooperative agreements),  
8 now or hereafter established in accordance with the laws of the Commonwealth of  
9 Kentucky having and possessing the described powers described in this subsection;
- 10 (15) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting  
11 from any process of industry, manufacture, trade, or business, or from the mining or  
12 taking, development, processing, or recovery of any natural resources, including  
13 heat and radioactivity, together with any sewage as is present therein, which  
14 pollutes the waters of the state, and specifically, but not by way of limitation, means  
15 heat or thermal differentials created in the waters of the state by any industrial  
16 processing, generating, or manufacturing processes;
- 17 (16) "Infrastructure project" means any construction or acquisition of treatment works,  
18 facilities related to the collection, transportation, and treatment of wastewater as  
19 defined in KRS 65.8903, distribution facilities, or water resources projects instituted  
20 by a governmental agency or an investor-owned water utility which is approved by  
21 the authority and, if required, by the Energy and Environment Cabinet, Public  
22 Service Commission, or other agency; solid waste projects; dams; storm water  
23 control and treatment systems; gas or electric utility; broadband deployment project;  
24 or any other public utility or public service project which the authority finds would  
25 assist in carrying out the purposes set out in KRS 224A.300;
- 26 (17) "Infrastructure revolving fund" means that fund which will receive state funds, the  
27 proceeds from the sale of revenue bonds of the authority or other moneys earmarked

- 1 for that fund for the purpose of providing loans or grants to finance construction or  
2 acquisition of infrastructure projects as defined in this section;
- 3 (18) "Loan or grant" means moneys to be made available to governmental agencies by  
4 the authority for the purpose of defraying all or any part of the total costs incidental  
5 to construction or acquisition of any infrastructure project;
- 6 (19) "Market interest rate" means the interest rate determined by the authority under  
7 existing market conditions at the time the authority shall provide financial  
8 assistance to a governmental agency;
- 9 (20) "Obligation of a governmental agency" means a revenue bond, bond anticipation  
10 note, revenue anticipation note, lease, or other obligation issued by a governmental  
11 agency under KRS 58.010 et seq. or other applicable statutes;
- 12 (21) "Person" means any individual, firm, partnership, association, corporation, or  
13 governmental agency;
- 14 (22) "Pollution" means the placing of any noxious or deleterious substances  
15 ("pollutants"), including sewage and industrial wastes, in any waters of the state or  
16 affecting the properties of any waters of the state in a manner which renders the  
17 waters harmful or inimical to the public health or to animal or aquatic life, or to the  
18 use, present or future, of these waters for domestic water supply, industrial or  
19 agricultural purposes, or recreational purposes;
- 20 (23) "Prioritization schedules" means the list of wastewater treatment works, distribution  
21 facilities and water resources projects which the Energy and Environment Cabinet  
22 has evaluated and determined to be of priority for receiving financial assistance  
23 from the federally assisted wastewater revolving fund and the federally assisted  
24 drinking water revolving fund, or the list of infrastructure projects which the  
25 authority has evaluated and determined to be of priority for receiving financial aid  
26 from the infrastructure revolving fund. The evaluation by the authority of  
27 infrastructure projects for water systems shall be undertaken with input from the

1 appropriate area development district. The evaluation by the authority of  
2 infrastructure for broadband deployment projects shall be undertaken with  
3 consideration given to input from area development districts, telecommunications  
4 businesses, information services, technology industries, governmental entities, and  
5 Kentucky-based nonprofit organizations, including ConnectKentucky;

6 (24) "Solid waste project" means construction, renovation, or acquisition of a solid waste  
7 facility which shall be instituted and owned by a governmental agency;

8 (25) "Recovered material" means those materials which have known current use, reuse,  
9 or recycling potential, which can be feasibly used, reused, or recycled, and which  
10 have been diverted or removed from the solid waste stream for sale, use, reuse, or  
11 recycling, whether or not requiring subsequent separation and processing but does  
12 not include materials diverted or removed for purposes of energy recovery or  
13 combustion except refuse-derived fuel (RDF), which shall be credited as a  
14 recovered material in an amount equal to that percentage of the municipal solid  
15 waste received on a daily basis at the processing facility and processed into RDF;  
16 but not to exceed fifteen percent (15%) of the total amount of the municipal solid  
17 waste received at the processing facility on a daily basis;

18 (26) "Recovered material processing facility" means a facility engaged solely in the  
19 storage, processing, and resale or reuse of recovered material but does not mean a  
20 solid waste facility if solid waste generated by a recovered material processing  
21 facility is managed in accordance with KRS Chapter 224 and administrative  
22 regulations adopted by the cabinet;

23 (27) "Revenue bonds" means special obligation bonds issued by the authority as  
24 provided by the provisions of this chapter, which are not direct or general  
25 obligations of the state, and which are payable only from a pledge of, and lien upon,  
26 authority revenues as provided in the resolution authorizing the issuance of the  
27 bonds, and shall include revenue bond anticipation notes;

- 1 (28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be  
2 imposed by a governmental agency, or by the authority, for any infrastructure  
3 project financed by the authority, which service charge arises by reason of the  
4 existence of, and requirements of, any assistance agreement;
- 5 (29) "Sewage" means any of the waste products or excrements, or other discharges from  
6 the bodies of human beings or animals, which pollute the waters of the state;
- 7 (30) "Solid waste" means "solid waste" as defined by KRS 224.1-010(30)~~[(31)]~~(a);
- 8 (31) "Solid waste facility" means any facility for collection, handling, storage,  
9 transportation, transfer, processing, treatment, or disposal of solid waste, whether  
10 the facility is associated with facilities generating the waste or otherwise, but does  
11 not include a container located on property where the waste is generated and which  
12 is used solely for the purpose of collection and temporary storage of that solid waste  
13 prior to off-site disposal, or a recovered material processing facility;
- 14 (32) "Solid waste revolving fund" means that fund which shall receive state funds, the  
15 proceeds from the sale of revenue bonds of the authority, or other moneys  
16 earmarked for the purpose of providing loans or grants to finance solid waste  
17 projects defined in this section;
- 18 (33) "State" means the Commonwealth of Kentucky;
- 19 (34) "System" means the system owned and operated by a governmental agency with  
20 respect to solid waste projects, treatment works, or infrastructure projects financed  
21 as provided by the assistance agreement between the governmental agency and the  
22 authority;
- 23 (35) "Treatment works" or "wastewater treatment works" means all or any part of any  
24 facilities, devices, and systems used and useful in the storage, treatment, recycling,  
25 and reclamation of wastewater or the abatement of pollution, including facilities for  
26 the treatment, neutralization, disposal of, stabilization, collecting, segregating, or  
27 holding of wastewater, including without limiting the generality of the foregoing,

1 intercepting sewers, outfall sewers, pumping power stations, and other equipment  
2 and their appurtenances; extensions, improvements, remodeling, additions, and  
3 alterations thereof, and any wastewater treatment works, including site acquisition  
4 of the land that will be an integral part of the wastewater treatment process, or is  
5 used for ultimate disposal of residues resulting from wastewater treatment, together  
6 with any other facilities which are deemed to be treatment works in accordance with  
7 the federal act;

8 (36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which  
9 fluctuates either automatically by reference to a predetermined formula or index or  
10 in accordance with the standards set forth in KRS 224A.120;

11 (37) "Wastewater" means any water or liquid substance containing sewage, industrial  
12 waste, or other pollutants or contaminants derived from the prior use of these  
13 waters;

14 (38) "Water resources" means all waters of the state occurring on the surface, in natural  
15 or artificial channels, lakes, reservoirs, or impoundments, and in subsurface  
16 aquifers, which are available, or which may be made available to agricultural,  
17 industrial, commercial, recreational, public, and domestic users;

18 (39) "Water resources project" means any structural or nonstructural study, plan, design,  
19 construction, development, improvement, or any other activity including programs  
20 for management, intended to conserve and develop the water resources of the state  
21 and shall include all aspects of water supply, facilities to collect, transport, and treat  
22 wastewater as defined in KRS 65.8903, flood damage abatement, navigation, water-  
23 related recreation, and land conservation facilities and measures;

24 (40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds,  
25 marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or  
26 accumulations of water, surface and underground, natural or artificial, which are  
27 situated wholly or partly within, or border upon, this state, or are within its



1 jurisdiction, except those private waters which do not combine or effect a junction  
2 with natural, surface, or underground waters;

3 (41) "Utility tax" means the tax which may be imposed by the authority on every  
4 purchase of water or sewer service in the Commonwealth of Kentucky;

5 (42) "Broadband deployment project" means the construction, provision, development,  
6 operation, maintenance, leasing, or improvement of broadband infrastructure,  
7 broadband services, or technologies that constitute a part of, or are related to,  
8 broadband infrastructure or broadband services, to provide for broadband service in  
9 unserved areas of the Commonwealth; and

10 (43) "Unserved area" means any place where broadband service is not available.

11 ➔Section 27. KRS 349.010 is amended to read as follows:

12 As used in this chapter:

13 (1) "Abandoned" when used in connection with a well or hole means a well or hole  
14 which has never been used, or which, in the opinion of the department, will no  
15 longer be used for the production of coalbed methane or the injection or disposal of  
16 fluid therein;

17 (2) "Coal interest holder" means every record coal owner, record coal lessee, mine  
18 licensee as defined in KRS 352.010(1)(~~r~~)(~~s~~) and mine permittee as defined in KRS  
19 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a  
20 coalbed methane well;

21 (3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

22 (4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a  
23 mined-out area, or gob;

24 (5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened  
25 for the purpose of capturing coalbed methane for sale or use. Any well initially used  
26 for a coal mining-related purpose, such as a vent well, but which is subsequently  
27 used for the purpose of recovering coalbed methane for sale or use, shall then be

- 1 deemed to be a coalbed methane well and shall comply with the provisions of this  
2 chapter at the time that the well is converted or used for the purpose of recovering  
3 coalbed methane for sale or use;
- 4 (6) "Commissioner" means the commissioner of the Department for Natural Resources;
- 5 (7) "Correlative rights" means the reasonable opportunity of each person entitled to  
6 recover, without waste, the coalbed methane in and under his or her tract or tracts,  
7 or the equivalent thereof;
- 8 (8) "Department" means the Department for Natural Resources;
- 9 (9) "Director" means the director of the Division of Oil and Gas as established in KRS  
10 353.530;
- 11 (10) "Drilling unit" means the maximum area in a pool which may be drained efficiently  
12 by one (1) well so as to produce the reasonable maximum recoverable coalbed  
13 methane in the area. Where the department has provided rules for the establishment  
14 of a drilling unit and an operator, proceeding within the framework of the rules so  
15 prescribed, has taken the action necessary to have a specified area established for  
16 production from a well, the area shall be a drilling unit;
- 17 (11) "Division" means the Division of Mine Permits in the Department for Natural  
18 Resources;
- 19 (12) "Field rules" means rules established by orders of the review board relating to the  
20 drilling, completion, production of, and specifications for coalbed methane wells in  
21 a particular geographic area as defined by an order;
- 22 (13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal  
23 that extends above and below the mined-out coalbed;
- 24 (14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this  
25 chapter which produces or is capable of producing coalbed methane for sale or use,  
26 from a de-stressed zone associated with any full seam extraction of coal that  
27 extends above or below a mined-out coalbed;

- 1 (15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a  
2 borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating  
3 a coal seam to produce coalbed methane;
- 4 (16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r)~~(s)~~;
- 5 (17) "Mine permittee" means the permittee as defined in KRS 350.010(21);
- 6 (18) "Nonparticipating working interest owner" means a coalbed methane owner or  
7 lessee of a tract included in a drilling unit who elects to share in the operation of the  
8 coalbed methane well on a carried basis by agreeing to have his or her proportionate  
9 share of the costs allocable to his or her interest charged against his or her share of  
10 production from the coalbed methane well;
- 11 (19) "Nonparticipating operator" means a nonparticipating working interest owner who  
12 is also the operator of the coalbed methane well;
- 13 (20) "Operator" means any owner of the right to drill, develop, operate, and produce  
14 coalbed methane from a pool and to appropriate the coalbed methane produced  
15 therefrom, either for himself or herself, or for himself, herself, and others; in the  
16 event there is no coalbed methane lease in existence with respect to the tract in  
17 question, the owner of the coalbed methane rights therein shall be considered as an  
18 "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that  
19 portion of the pool underlying the tract owned by that owner, and as a "royalty  
20 owner" as to one-eighth (1/8) interest in that coalbed methane;
- 21 (21) "Other interested coalbed methane parties" means all working interest owners other  
22 than the operator, all royalty and overriding royalty interest owners or holders, and  
23 any other party who owns or holds a right or interest in a drilling unit, coalbed  
24 methane well site for which a drilling permit has been issued or is pending, and all  
25 associated equipment, facilities, infrastructure, and improvements;
- 26 (22) "Participating working interest owner" means a coalbed methane owner or lessee  
27 who elects to bear a share of the risks and costs of drilling, completing, equipping,

- 1 operating, plugging, and abandoning a coalbed methane well equal to the proportion  
2 which the acreage in the drilling unit he or she owns or holds under lease bears to  
3 the total acreage of the drilling unit;
- 4 (23) "Participating operator" means a participating working interest owner who is also  
5 the operator of the coalbed methane well;
- 6 (24) "Person" means any person, corporation, association, partnership, limited liability  
7 company, receiver, governmental agency subject to this chapter, trustee, so-called  
8 common law or statutory trust, guardian, executor, administrator, or fiduciary of any  
9 kind, federal agency, state agency, city, commission, political subdivision of the  
10 Commonwealth, or any interstate body;
- 11 (25) "Plat" means a map, drawing, or print showing the location of a well;
- 12 (26) "Review board" means the Coalbed Methane Well Review Board;
- 13 (27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane  
14 rights, to the extent that the owner is not an operator as defined in subsection (20) of  
15 this section;
- 16 (28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the  
17 inherent productivity of a coalbed methane well, including but not limited to  
18 fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out,  
19 bailing, or workover operations;
- 20 (29) "Surface owner" means the person in whose name the surface of the land is assessed  
21 for purposes of taxes imposed according to the property valuation administrator;
- 22 (30) "Unit" means any tract or tracts which the department has determined are underlaid  
23 by a pool or pools of coalbed methane and are not drilling units as defined in  
24 subsection (10) of this section;
- 25 (31) "Unitization" means the act of combining separately owned tracts or separate  
26 interests therein into a unit constituting all or some portion of a coalbed that  
27 produces or is capable of producing coalbed methane and the joint operation of that

1 unit;

2 (32) "Unit operator" means the party designated in a pooling order to develop a unit by  
3 the drilling of one (1) or more coalbed methane wells;

4 (33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened,  
5 converted or reopened, which is used for the purpose of releasing or venting  
6 coalbed methane to the atmosphere and not for the purpose of capturing or  
7 producing coalbed methane for sale or use;

8 (34) "Venting" means the act of releasing coalbed methane to the atmosphere;

9 (35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted  
10 or reopened for the purpose of capturing or producing coalbed methane for sale or  
11 use; and

12 (36) "Workable coalbed" means:

13 (a) Any coalbed twenty-four (24) inches or more in thickness;

14 (b) Any coalbed actually being operated commercially;

15 (c) Any coalbed that the department decides can be operated commercially, and  
16 the operation of which can reasonably be expected to commence within not  
17 more than ten (10) years; or

18 (d) Any coalbed that, from outcrop indication or other definite evidence, proves to  
19 the satisfaction of the department to be workable and, when operated, will  
20 require protection if wells are drilled through or into it.

21 ➔Section 28. KRS 351.010 is amended to read as follows:

22 (1) As used in this chapter, unless the context requires otherwise:

23 (a) "Adulterated specimen" means a specimen containing a substance that is not a  
24 normal constituent or containing an endogenous substance at a concentration  
25 that is not a normal physiological concentration;

26 (b) "Approved" means that a device, apparatus, equipment, or machinery, or  
27 practice employed in the mining of coal has been approved by the

1 commissioner of the Department for Natural Resources;

2 (c) "Assistant mine foreman" means a certified person designated to assist the  
3 mine foreman in the supervision of a portion or the whole of a mine or of the  
4 persons employed therein;

5 (d) ~~["Board" means the Mining Board created in KRS 351.105;~~

6 ~~(e)]~~ "Commercial mine" means any coal mine from which coal is mined for sale,  
7 commercial use, or exchange. This term shall in no instance be construed to  
8 include a mine where coal is produced for own use;

9 ~~(e)]~~ ~~(f)]~~ "Commission" means the Mine Safety Review Commission created by  
10 KRS 351.1041;

11 ~~(f)]~~ ~~(g)]~~ "Commissioner" means commissioner of the Department for Natural  
12 Resources;

13 ~~(g)]~~ ~~(h)]~~ "Department" means the Department for Natural Resources;

14 ~~(h)]~~ ~~(i)]~~ "Drift" means an opening through strata or coal seams with opening  
15 grades sufficient to permit coal to be hauled therefrom or which is used for the  
16 purpose of ventilation, drainage, ingress, egress, and other purposes in  
17 connection with the mining of coal;

18 ~~(i)]~~ ~~(j)]~~ "Excavations and workings" means the excavated portions of a mine;

19 ~~(j)]~~ ~~(k)]~~ "Fire boss" (often referred to as mine examiner) means a person certified  
20 as a mine foreman or assistant mine foreman who is designated by  
21 management to examine a mine or part of a mine for explosive gas or other  
22 dangers before a shift crew enters;

23 ~~(k)]~~ ~~(l)]~~ "Gassy mine." All mines shall be classified as gassy or gaseous;

24 ~~(l)]~~ ~~(m)]~~ "Illicit substances" includes prescription drugs used illegally or in excess  
25 of therapeutic levels as well as illegal drugs;

26 ~~(m)]~~ ~~(n)]~~ "Intake air" means air that has not passed through the last working place  
27 of the split or by the unsealed entrances to abandoned workings and by

1 analysis contains not less than nineteen and one-half percent (19.5%) oxygen,  
2 no dangerous quantities of flammable gas, and no harmful amounts of  
3 poisonous gas or dust;

4 ~~(n)~~~~(o)~~ "Licensee" means any owner, operator, lessee, corporation, partnership,  
5 or other person who procures a license from the department to operate a coal  
6 mine;

7 ~~(o)~~~~(p)~~ "Medical review officer" or "MRO" means a licensed physician with  
8 knowledge of substance abuse disorders, laboratory testing, chain of custody,  
9 collection procedures, and the ability to verify positive, confirmed test results.  
10 The MRO shall possess the necessary medical training to interpret and  
11 evaluate a positive test result in relation to the person's medical history or any  
12 other relevant biomedical information;

13 ~~(p)~~~~(q)~~ "Mine" means any open pit or any underground workings from which  
14 coal is produced for sale, exchange, or commercial use, and all shafts, slopes,  
15 drifts, or inclines leading thereto, and includes all buildings and equipment,  
16 above or below the surface of the ground, used in connection with the  
17 workings. Workings that are adjacent to each other and under the same  
18 management, but which are administered as distinct units, shall be considered  
19 a separate mine;

20 ~~(q)~~~~(r)~~ "Mine foreman" means a certified person whom the licensee or  
21 superintendent places in charge of the workings of the mine and of the persons  
22 employed therein;

23 ~~(r)~~~~(s)~~ "Mine manager" means a certified or noncertified person whom the  
24 licensee places in charge of a mine or mines and whose duties include but are  
25 not limited to operations at the mine or mines and supervision of personnel  
26 when qualified to do so;

27 ~~(s)~~~~(t)~~ "Open-pit mine" shall include open excavations and open-cut workings,

1 including but not limited to auger operations and highwall mining systems for  
2 the extraction of coal;

3 ~~(t)~~~~(u)~~ "Operator" means the licensee, owner, lessee, or other person who  
4 operates or controls a coal mine;

5 ~~(u)~~~~(v)~~ "Permissible" refers to any equipment, device, or explosive that has been  
6 approved by the United States Bureau of Mines, the Mining Enforcement and  
7 Safety Administration, or the Mine Safety and Health Administration and that  
8 meets all requirements, restrictions, exceptions, limitations, and conditions  
9 attached to the classification by the approving agency;

10 ~~(v)~~~~(w)~~ "Preshift examination" means the examination of a mine or any portion  
11 thereof where miners are scheduled to work or travel, which shall be  
12 conducted not more than three (3) hours before any oncoming shift;

13 ~~(w)~~~~(x)~~ "Return air" means air that has passed through the last active working  
14 place on each split, or air that has passed through abandoned, inaccessible, or  
15 pillared workings;

16 ~~(x)~~~~(y)~~ "Serious physical injury" means an injury which has a reasonable  
17 potential to cause death;

18 ~~(y)~~~~(z)~~ "Shaft" means a vertical opening through the strata that is used in  
19 connection with the mining of coal, for the purpose of ventilation or drainage,  
20 or for hoisting men, coal, or materials;

21 ~~(z)~~~~(aa)~~ "Slope" means an inclined opening used for the same purpose as a shaft;

22 ~~(aa)~~~~(ab)~~ "Superintendent" means the person who, on behalf of the licensee, has  
23 immediate supervision of one (1) or more mines;

24 ~~(ab)~~~~(ac)~~ "Supervisory personnel" means a person certified under the provisions  
25 of this chapter to assist in the supervision of a portion or the whole of the  
26 mine or of the persons employed therein;

27 ~~(ac)~~~~(ad)~~ "Division" means the Division of Mine Safety;



1        ~~(ad)~~ "Director" means the director of the Division of Mine Safety;

2        ~~(ae)~~ "Probation" means the status of a certification or license issued by the  
3        Division of Mine Safety that conditions the validity of the certification or  
4        license upon compliance with orders of the Mine Safety Review Commission;  
5        and

6        ~~(af)~~ "Final order of the commission" means an order which has not been  
7        appealed to the Franklin Circuit Court within thirty (30) days of entry, or an  
8        order affirming the commission's order that has been entered by any court  
9        within the Commonwealth and for which all appeals have been exhausted.

10      (2) Except as the context otherwise requires, this chapter applies only to commercial  
11      coal mines.

12      (3) The definitions in KRS 352.010 apply also to this chapter, unless the context  
13      requires otherwise.

14      ➔Section 29. KRS 351.070 is amended to read as follows:

15      (1) The commissioner shall have full authority over the department and shall  
16      superintend and direct the activities of the mine safety specialists and other  
17      personnel of the department. There is created within the Department for Natural  
18      Resources a Division of Mine Safety.

19      (2) The secretary shall appoint a director to the Division of Mine Safety in accordance  
20      with KRS 224.10-020(2) and prescribe his or her powers and duties.

21      (3) The commissioner may, whenever necessary, divide the coal fields of the state into  
22      as many inspection regions as necessary, so as to equalize as nearly as practicable  
23      the work of each mine safety specialist, and may assign to the specialists their  
24      respective regions.

25      (4) The commissioner may, whenever he or she deems it necessary in the interest of  
26      efficient supervision of the mines, temporarily employ the services of additional  
27      mine safety specialists or change specialists from one (1) region to another.

- 1 (5) The commissioner shall superintend and direct the inspection of mines and cause to  
2 be investigated the character and quality of air in mines whenever conditions  
3 indicate the necessity of doing so.
- 4 (6) The commissioner shall collect statistics relating to coal mining in the state and  
5 make an annual report of the statistics.
- 6 (7) The commissioner shall see that maps, plans, projections, and proposed  
7 developments of all underground coal mines are made and filed in his office.
- 8 (8) The commissioner shall keep a properly indexed, permanent record of all  
9 inspections made by himself and the personnel of the department.
- 10 (9) The commissioner shall exercise general supervision over the training of officials  
11 and workmen in safety and first aid and mine rescue methods, and may conduct  
12 demonstrations in safety whenever he deems it advisable.
- 13 (10) The commissioner shall exercise general supervision over the dissemination of  
14 information among officials and employees concerning mine ventilation, mining  
15 methods, and mine accidents and their prevention, and shall assume full charge in  
16 the event of mine fire or explosion or other serious accident at any mine in the state.
- 17 (11) The commissioner may assist in the resumption of operations of any mine or gather  
18 data for the development of any coal seams that would be of any benefit to the state  
19 or create new employment.
- 20 (12) The commissioner may prescribe reasonable safety standards governing the use of  
21 explosives, and electrical and mechanical equipment in the operation of open-pit or  
22 surface mines.
- 23 (13) The secretary of the Energy and Environment Cabinet shall have the power and  
24 authority to promulgate, amend, or rescind any administrative regulations he or she  
25 deems necessary and suitable for the proper administration of this chapter.  
26 Administrative regulations may be promulgated, amended, or rescinded by the  
27 secretary only after public hearing or an opportunity to be heard thereon of which

1 proper notice by publication pursuant to KRS Chapter 424, has been given.  
2 Administrative regulations so promulgated shall carry the full force and effect of  
3 law.

4 (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and  
5 any accidents involving serious physical injury and, within sixty (60) days of  
6 completion of the investigation, shall report his or her findings and  
7 recommendations to the Governor, the Mine Safety Review Commission, ~~the~~  
8 ~~Mining Board,~~ and the Legislative Research Commission. Accident interviews  
9 conducted by the division shall be closed proceedings. The recommendations may  
10 include without being limited to the need to promulgate or amend administrative  
11 regulations to prevent the recurrence of the conditions causing the fatality. Effective  
12 January 1, 2009, the division shall appoint an existing full-time employee to act as a  
13 family liaison. The family liaison shall have the responsibility during an accident  
14 investigation to keep the families of miners informed of the progress and findings of  
15 the accident investigation. The family liaison shall be trained in mining and in grief  
16 counseling.

17 (15) The commissioner shall assess civil monetary penalties against licensed facilities  
18 for violations of laws in this chapter and KRS Chapter 352 pertaining to roof  
19 control plans, mine seal construction plans, unsafe working conditions, and mine  
20 ventilation plans that could lead to imminent danger or serious physical injury. The  
21 Energy and Environment Cabinet shall promulgate administrative regulations  
22 within ninety (90) days of July 12, 2006, providing for the manner and method of  
23 the assessment of the penalties and appeals therefrom. In no event shall the civil  
24 penalty assessed pursuant to this subsection for the violation exceed five thousand  
25 dollars (\$5,000). Nothing contained in this subsection shall be construed to impair  
26 or contravene the authority granted under KRS 351.025(2) for imposing penalties  
27 against licensed facilities.

1       ➔Section 30. KRS 351.090 is amended to read as follows:

- 2       (1) The Governor shall appoint an adequate number of mine safety specialists to ensure  
3       at least two (2) inspections annually at all surface mines, provided the mine is in  
4       operation the entire year or the proportionate thereof, of all mines in the  
5       Commonwealth and sufficient additional mine safety specialists to enable the  
6       commissioner to provide adequate surveillance of coal mines where conditions or  
7       management policy dictate that more inspections are needed to ensure the safety of  
8       miners; except the commissioner shall inspect all underground coal mines not less  
9       than six (6) times annually. Two (2) of the six (6) general inspections of  
10      underground mines shall be full electrical inspections. One (1) or more of the  
11      appointees shall be designated as electrical mine inspectors. The Governor shall  
12      also appoint an adequate number of mine safety specialists to perform safety  
13      analysis and safety instruction. The term of office of each mine safety specialist  
14      shall be during the period of capable, efficient service and good behavior.
- 15      (2) All mine safety specialists shall have a thorough knowledge of first aid and mine  
16      rescue and be able to instruct in first aid and mine rescue, and shall possess  
17      thoroughly the knowledge required of the commissioner by KRS 351.060, and shall  
18      have a thorough and practical knowledge of mining gained by at least five (5) years'  
19      experience in coal mines in the Commonwealth. For the purposes of this subsection,  
20      a degree in mining engineering from a recognized institution shall be deemed  
21      equivalent to two (2) years of practical experience in coal mines or an associate  
22      degree in mining technology from a recognized institution shall be deemed  
23      equivalent to one (1) year practical experience in coal mines. A person desiring to  
24      use a mining engineering or technology degree for practical experience credit shall  
25      file proof of having received a degree prior to examination.
- 26      (3) No person shall be appointed to the office of mine safety specialist unless he or she  
27      holds a current mine foreman's certificate. A person appointed as mine safety

1 specialist shall pass an examination administered by the department~~board~~. The  
2 commissioner may recommend to the Governor applicants for the positions of mine  
3 safety specialist who have successfully passed the examination and are proved by  
4 worth, training, and experience to be the most competent of the applicants.

5 (4) Mine safety specialists shall be of good moral character and temperate habits and  
6 shall not, while holding office, act in any official capacity in operating any coal  
7 mine.

8 (5) No reimbursement for traveling expenses shall be made except on an itemized  
9 accounting for the expenses submitted by mine safety specialists who shall verify  
10 upon oath that the expenses were incurred in the discharge of their official duties.

11 (6) Each mine safety specialist shall take oath, which shall be certified by the officer  
12 administering it. The oath, in writing, and the certificate, shall be filed in the office  
13 of the Secretary of State.

14 (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety  
15 instructor shall give bond with surety approved by the Governor.

16 (8) Each mine safety specialist shall provide authorization to the division to perform a  
17 criminal background check by means of a fingerprint check by the Department of  
18 Kentucky State Police. The results of the state criminal background check shall be  
19 sent to the director of the division. Any fee charged by the Department of Kentucky  
20 State Police shall be an amount no greater than the actual cost of processing the  
21 request and conducting the search.

22 ➔Section 31. KRS 351.102 is amended to read as follows:

23 (1) No person shall be assigned mining duties by a licensee as a laborer or supervisor  
24 unless the person holds a valid certificate of competency and qualification or a valid  
25 permit as trainee issued in accordance with this section.

26 (2) The division shall require that all applicants for certified miner and initial applicants  
27 for other mining certifications pursuant to this chapter shall submit proof that he or

1 she is drug and alcohol free. The proof shall be submitted in accordance with KRS  
2 351.182 and 351.183.

3 (3) A permit as trainee miner shall be issued by the commissioner to any person who  
4 has submitted proof that he or she is drug and alcohol free in accordance with KRS  
5 351.182 and 351.183, and has completed a program of education of a minimum of  
6 forty (40) hours for underground mining or twenty-four (24) hours for surface  
7 mining comprised of sixteen (16) hours of classroom training and eight (8) hours of  
8 mine specifics or who has completed a certified mine technology program and has  
9 passed an examination approved by the commissioner. An additional eight (8) hours  
10 of mine-specific training shall be administered to the trainee miner by the licensee,  
11 which training shall be documented on a form approved by the commissioner. This  
12 education and training program shall be determined and established by the  
13 department~~board~~, as provided in KRS 351.106. A requirement for a permit as a  
14 trainee miner shall be one (1) hour of classroom training dedicated to alcohol and  
15 substance abuse education.

16 (4) Trainee miners shall work within the sight and sound of a certified miner.

17 (5) Any miner holding a certificate of competency and qualification may have one (1)  
18 person working with him and under his direction as a trainee miner. Any person  
19 certified as a mine foreman or assistant mine foreman shall have no more than five  
20 (5) persons working under his supervision or direction as trainee miners for the  
21 purpose of learning and being instructed in the duties of underground coal mining.

22 (6) A certificate of competency and qualification as a miner shall be issued by the  
23 commissioner to any person who has a minimum of forty-five (45) working days'  
24 experience within a thirty-six (36) month period as a trainee miner and  
25 demonstrated competence as a miner. Any trainee miner who exceeds six (6)  
26 months in obtaining the forty-five (45) working days of experience required in this  
27 section, shall submit proof of alcohol- and drug-free status in accordance with the

1 provisions of KRS 351.182 and 351.183.

2 (7) All examinations for the certification of a miner shall be of a practical nature and  
3 shall determine the competency and qualification of the applicant to engage in the  
4 mining of coal with reasonable safety to himself and his fellow employees. The  
5 examination may be given orally, upon approval by the commissioner, if the miner  
6 is unable to read or comprehend a written examination.

7 (8) Examinations shall be held in any regional office during regular business hours.

8 (9) If the commissioner or his authorized representative finds that an applicant is not  
9 qualified and competent, he shall notify the applicant as soon as possible, but in no  
10 case more than thirty (30) days after the date of examination.

11 (10) Any applicant aggrieved by an action of the commissioner or his authorized  
12 representative in failing or refusing to issue a certificate of qualification and  
13 competency shall, within ten (10) days of notice of the action complained of, appeal  
14 to the commissioner who shall either affirm the action or issue the certificate to the  
15 applicant.

16 (11) If the applicant is aggrieved by the action of the commissioner, he may appeal to the  
17 commission which shall hold a hearing on the matter in accordance with KRS  
18 Chapter 13B.

19 (12) The applicant may appeal from the final order of the commission by filing in the  
20 Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.

21 ➔Section 32. KRS 351.103 is amended to read as follows:

22 (1) All persons possessing valid certificates as mine inspectors, electrical inspectors,  
23 mine safety instructors, assistant mine foreman, mine foreman, shotfirer, and other  
24 mining specialties as established by the department~~board~~, or certified miner shall  
25 be eligible to work at any time as miners, provided they fulfill the annual  
26 requirements for retraining and reeducation as provided in KRS 351.106.

27 (2) Supervisory, clerical, and technically trained employees of the mine operator whose

1 work contributes only indirectly to mine operations shall not be required to possess  
2 a miner's certificate of competency and qualification.

3 ➔Section 33. KRS 351.1041 is amended to read as follows:

4 (1) The Mine Safety Review Commission is created as an independent governmental  
5 entity attached to the Energy and Environment Cabinet, Office of the Secretary, for  
6 administrative purposes. The commission shall:

7 (a) Conduct hearings and issue orders regarding a licensee, coal operation, or  
8 other person involved in the mining of coal in accordance with KRS 351.194;

9 (b) Jointly with the department establish a process for the department's referral of  
10 allegations of mine safety violations, allegations of unsafe working conditions,  
11 violation of a miner's drug- and alcohol-free condition of certification, or  
12 supervisory personnel's failure to immediately report a fatal accident or an  
13 accident involving serious physical injury to the commission for adjudication;

14 (c) Make any recommendations to the department that it believes appropriate  
15 upon its review, consideration, and analysis of:

16 1. All reports of coal mining fatalities and serious physical injuries  
17 provided by the commissioner under KRS 351.070(14);

18 2. Any case in which a miner or a mine owner or operator, in the  
19 professional opinion of the department has a history of significant and  
20 substantial safety violations even though there has been no serious  
21 physical injury or death resulting from the violations;

22 3. Any case in which a miner or a mine owner or operator has been  
23 convicted of a criminal charge for a violation of a federal mine safety  
24 standard or standards; and

25 4. Any case in which the Federal Mine Safety and Health Administration  
26 has made a recommendation relating to certification of an individual  
27 certified under this chapter.



- 1 (2) The Mine Safety Review Commission shall consist of three (3) members appointed  
2 by the Governor subject to the consent of the Senate and the House of  
3 Representatives in accordance with KRS 11.160. Of the members of the Mine  
4 Safety Review Commission first appointed under this section, one (1) shall be  
5 appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2)  
6 years; and one (1) shall be appointed for a term of three (3) years. After the initial  
7 appointments, members of the commission~~board~~ shall be appointed for terms of  
8 four (4) years. A member may be reappointed at the expiration of his or her  
9 previous term. Members shall continue to serve until a successor is appointed and  
10 qualified.
- 11 (3) The members of the Mine Safety Review Commission shall have the qualifications  
12 required of Judges of the Court of Appeals, except for residence in a district, and  
13 shall be subject to the same standards of conduct made applicable to a part-time  
14 judge by the Rules of the Kentucky Supreme Court. The members shall receive the  
15 per diem equivalent of the salary of a Judge of the Court of Appeals for each day  
16 spent in conducting the business of the commission.
- 17 (4) The Governor shall designate a member of the Mine Safety Review Commission to  
18 serve as chair and shall fill any vacancy in the office of chair.
- 19 (5) The Governor may remove any member for good cause, including violation of the  
20 Code of Judicial Conduct and repeated failure to perform satisfactorily the specific  
21 duties assigned in this chapter or KRS Chapter 352. The Governor may remove the  
22 member only after furnishing him or her with a written copy of the charges against  
23 that member and holding a public hearing if requested by the member.
- 24 (6) The commission shall meet on the call of the chair or a majority of the members of  
25 the commission.
- 26 (7) The Energy and Environment Cabinet shall provide administrative services to the  
27 Mine Safety Review Commission. If the commission deems it necessary to employ

1 hearing officers to assist it, the Energy and Environment Cabinet shall employ  
2 hearing officers to assist the commission in accordance with KRS Chapter 13B and  
3 this chapter, notwithstanding the provisions of KRS 13B.030(2)(b).

4 (8) The commission may conduct hearings, compel the attendance of witnesses,  
5 administer oaths, and conduct oversight activities as may be required to ensure the  
6 full implementation of its duties.

7 (9) The department shall provide the Mine Safety Review Commission with all  
8 information requested by the commission for the fulfillment of its responsibilities  
9 under this chapter and KRS Chapter 352.

10 (10) The secretary of the Energy and Environment Cabinet shall effectuate the hiring of  
11 any staff deemed necessary and affordable for the efficient operations of the Mine  
12 Safety Review Commission. This may include an executive director, general  
13 counsel, or other administrative support positions, to be appointed in accordance  
14 with KRS 12.010 and 12.050.

15 ➔Section 34. KRS 351.1045 is amended to read as follows:

16 The members of the Mine Safety Review Commission~~[and the Mining Board]~~ shall  
17 complete a forty (40) hour new miner training course if they have not completed the  
18 course within the previous two (2) years. In addition, they shall participate in a site visit  
19 of an underground mine and a surface coal mine and thereafter make a site visit of an  
20 underground mine at least every three (3) years.

21 ➔Section 35. KRS 351.106 is amended to read as follows:

22 (1) The department~~[Mining Board]~~ shall establish criteria and standards for a program  
23 of education and training to be required of prospective miners, miners, and all  
24 certified persons. This education and training shall be provided in a manner  
25 determined by the commissioner to be adequate to meet the standards established by  
26 the department~~[board]~~, which shall include as a minimum the requirements of KRS  
27 351.102 and the requirements of the federal government for the training of miners

- 1 for new work assignments, and at least sixteen (16) hours of annual retraining and  
2 reeducation for all certified persons, of which thirty (30) minutes annually shall be  
3 dedicated to alcohol and substance abuse education. Effective January 1, 2009, in  
4 addition, six (6) hours of annual training on changes in mine safety laws, safe  
5 retreat mining practices, disciplinary cases litigated before the Mine Safety Review  
6 Commission, changes in mine safety technology, and ways to improve safe working  
7 procedures shall be required for all mine foremen. This annual training for mine  
8 foremen shall be provided exclusively by the division.
- 9 (2) One (1) hour of initial substance abuse training and education shall be required as  
10 part of the certified miner's first annual retraining conducted in a classroom that  
11 occurs after August 1, 2006. This requirement shall not apply to certified persons  
12 who received the one (1) hour initial substance abuse training and education as part  
13 of their forty (40) hour or twenty-four (24) hour new miner training.
- 14 (3) In addition to the thirty (30) minutes of annual alcohol and substance abuse  
15 education required for certified miners, supervisory personnel shall be required to  
16 receive an additional thirty (30) minutes of alcohol and substance abuse awareness  
17 training annually.
- 18 (4) Beginning with the first full calendar year after the effective date established by the  
19 department~~board~~ and during each calendar year thereafter, each certified miner  
20 shall receive at least sixteen (16) hours of retraining and reeducation.
- 21 (5) Newly hired experienced miner training shall satisfy the miner's annual retraining  
22 requirement if a time lapse occurs between the miner's last training anniversary date  
23 and the next scheduled training anniversary date for the mine where he is newly  
24 employed, if the miner has complied with the annual retraining requirements within  
25 the last twelve (12) months from the date of his newly hired experienced miner  
26 training.
- 27 (6) Retraining and reeducation sessions shall be conducted at times and in numbers to

- 1 reasonably assure each certified miner an opportunity to attend.
- 2 (7) The licensee shall pay all certified miners their regular wages and benefits while  
3 they receive training required by the department.
- 4 (8) Willful failure of a working miner to complete annual retraining and reeducation  
5 requirements shall constitute grounds for revocation, suspension, or probation of his  
6 certificate.
- 7 (9) If the department discovers a miner working without proper training or the licensee  
8 cannot provide proof of training, the miner shall be withdrawn immediately from  
9 the mine and the licensee shall pay the miner his regular wages until the training is  
10 administered and properly documented.
- 11 (10) When employment is terminated, the licensee shall provide the employee a copy of  
12 his training records, upon request. If the employee does not request his training  
13 records immediately, the licensee shall, within fifteen (15) days, provide the  
14 employee with those training records.
- 15 (11) The department~~board~~ may, upon its own motion or whenever requested to do so  
16 by the commissioner, deem applicable certificates issued by other states to be proof  
17 of training and education equal to the requirements of KRS 351.102 or deem  
18 training provided by appropriate federal agencies to be adequate to meet training  
19 and education requirements established by the department~~board~~, if the training  
20 and education meet the minimum requirements of this chapter.
- 21 (12) The secretary may promulgate administrative regulations necessary to establish a  
22 program to implement the provisions of this chapter according to the criteria and  
23 standards established by the department~~board~~. This program shall include but not  
24 be limited to implementation of a program of instruction and the conduct of  
25 examinations to test each applicant's knowledge and understanding of the training  
26 and instruction.
- 27 (13) The commissioner shall keep and maintain current records on all certified miners,

1 all of which shall be maintained by computer for ready access. The commissioner  
2 shall not grant certification to any person that, at the time of application, had his or  
3 her miner certification, foreman certification, electrician certification, or any other  
4 mining specialty certification suspended or revoked by another state. If a person has  
5 his or her miner certification, foreman certification, electrician certification, or other  
6 mining specialty certification probated in another state, the commissioner ~~or the~~  
7 ~~Mining Board~~ may, at his or her~~its~~ discretion, grant the equivalent certification.  
8 However, that certification shall be placed on probation in Kentucky until the  
9 probationary period in the other state has expired.

10 (14) The commissioner is authorized and directed to utilize state mine safety specialists,  
11 private and public institutions of education, and other qualified persons available to  
12 him in implementing the program of instruction and examination.

13 (15) ~~The commissioner may make recommendations to the board as he may deem~~  
14 ~~appropriate. The commissioner shall provide information to the board at the board's~~  
15 ~~request.~~ The commissioner is authorized and directed to utilize state and federal  
16 moneys and personnel that may be available to the department for educational and  
17 training purposes in the implementation of the provisions of this chapter.

18 (16) All training and education required by this section may be conducted in classrooms,  
19 on the job, or in simulated mines.

20 ➔Section 36. KRS 351.110 is amended to read as follows:

21 (1) The department~~board~~ shall not admit any applicant for certification as a mine  
22 inspector, mine safety analyst, electrical inspector, mine safety instructor, mine  
23 foreman, or assistant mine foreman to take an examination given by it unless the  
24 applicant has the experience required by this chapter, and has submitted proof that  
25 he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183,  
26 and has presented to the examiner at the time of registration for the examination a  
27 United States postal money order or certified check in the amount of fifty dollars

1 (\$50). All money orders or certified checks required herein shall be made payable to  
2 the State Treasurer, Frankfort, Kentucky.

3 (2) All money paid to the State Treasurer for licenses and fees required by this chapter  
4 shall be for the sole use of the department and shall be in addition to any moneys  
5 appropriated by the General Assembly for the use of the department.

6 (3) The department~~[board]~~ may refuse to examine any applicant who cannot readily  
7 understand the written English language or cannot express himself intelligently in  
8 English, or who is obviously intoxicated.

9 ➔Section 37. KRS 351.120 is amended to read as follows:

10 (1) The commissioner shall issue a certificate to each person who possesses the  
11 qualifications required by law for mine inspector, electrical inspector, surface or  
12 underground mine safety instructor, surface mine safety analyst, assistant mine  
13 foreman, mine foreman, shotfirer, and other mining specialties as established by the  
14 department~~[board]~~, or miner who has passed the examination given by direction of  
15 the department~~[board]~~ for that position, and who has met the requirements for drug-  
16 and alcohol-free status.

17 (2) The certificate shall be in such form as the commissioner prescribes, shall be signed  
18 by the commissioner, and shall show that the holder has passed the required  
19 examination and possesses the qualifications required by law for mine inspector,  
20 electrical inspector, surface or underground mine safety instructor, surface mine  
21 safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining  
22 specialties as established by the department~~[board]~~, or miner and is authorized to  
23 act as such.

24 (3) Certificates issued to mine foremen and assistant mine foremen shall be classified  
25 as follows:

26 (a) Mine foreman certificates, authorizing the holder to act as foreman for all  
27 classes of coal mines; and

- 1 (b) Assistant mine foreman certificates, authorizing the holder to act as assistant  
2 foreman.
- 3 (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine  
4 examiner. This shall not apply to persons holding a second class mine foreman  
5 certificate issued before June 16, 1972.
- 6 (5) The class of mine foreman's certificate awarded shall be determined by the  
7 department~~board~~ according to the experience of the applicant.
- 8 (6) No certificate shall be granted to any person who does not present to the  
9 department~~board~~ satisfactory evidence, in the form of affidavits, that the applicant  
10 has had the required practical experience in underground or surface coal mines. A  
11 data sheet shall be filed by each applicant showing places of employment, beginning  
12 month and year and ending month and year employed by each company and list jobs  
13 performed, showing at least the number of required years. Affidavit and data sheet  
14 forms shall be furnished by the department. The applicant also shall submit proof  
15 that he or she is drug and alcohol free. The proof shall be submitted in accordance  
16 with KRS 351.182 and 351.183. For the purpose of this section, persons holding a  
17 four (4) year degree in mining engineering from a recognized institution shall be  
18 credited with the equivalent of two (2) years of practical experience in coal mines  
19 when applying for any mine foreman or assistant mine foreman certificate. Persons  
20 holding an associate degree in mining from a recognized institution shall be credited  
21 with the equivalent of two (2) years' experience when applying for a mine foreman  
22 certificate and one (1) year when applying for an assistant mine foreman certificate.  
23 Persons desiring to use their mining engineering or mining technology degree as  
24 credit for practical experience toward a mine foreman or assistant mine foreman  
25 certificate shall file proof of having received their degree prior to the examination.
- 26 (7) Applicants for an underground mine foreman certificate shall have five (5) years'  
27 practical underground coal mining experience acquired after achieving the age of

1       eighteen (18), with at least one (1) year of this experience acquired on an active  
2       working section of an underground mine. Applicants for an underground assistant  
3       mine foreman certificate shall have three (3) years' practical underground  
4       experience acquired after achieving the age of eighteen (18), with at least one (1)  
5       year of this experience acquired on an active working section of an underground  
6       mine.

7       (8) Applicants for surface mine foremen certification shall have three (3) years'  
8       practical surface mine experience acquired after achieving the age of eighteen (18);  
9       for surface mine foreman certification with a specialty in coal extraction, at least  
10      one (1) year of the required practical experience shall have been acquired from  
11      direct involvement in the mining or extraction of coal at a surface mine. For a  
12      surface mine foreman certification with a specialty in postmining activities, at least  
13      one (1) year of the required experience shall have been acquired from direct  
14      involvement in the performance of such activities at a surface or underground mine,  
15      coal preparation plant, or other coal-handling facility. Notwithstanding any  
16      requirement in this subsection to the contrary, a person having three (3) years' of  
17      underground or surface mining experience shall qualify for a surface mine foreman  
18      certification with a specialty in postmining activities if the person has documented  
19      experience of at least one (1) year in the performance of these activities. Persons  
20      holding a surface mine foreman certificate prior to July 15, 1998, are not affected by  
21      this section.

22      (9) Persons possessing certificates of qualifications to act as mine inspector, mine  
23      foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected  
24      by this section.

25      (10) When approved by the commissioner, a person who has successfully completed any  
26      mine foreman or assistant mine foreman examination and submitted proof that he or  
27      she is drug and alcohol free in accordance with KRS 351.182 and 351.183 may be



1 granted a temporary certification that is valid only until the department~~[board]~~ acts  
2 upon his or her certification at its next regularly scheduled meeting.

3 (11) A member of the supervisory personnel shall be present at the working section  
4 except in cases of emergencies at all times employees under his supervision are at  
5 the working section on coal-producing shifts.

6 (12) The commissioner immediately shall suspend any certification for violation of drug-  
7 and alcohol-free status or for failure or refusal to submit to a drug and alcohol test  
8 authorized by KRS 351.182, 351.183, 351.184, 351.185, and 352.180. The  
9 commissioner shall, by certified mail, notify the holder of the certification of his or  
10 her suspension and of the following:

11 (a) The right to pursue one (1) of the following options:

12 1. Appeal the suspension to the Mine Safety Review Commission within  
13 thirty (30) days of the notification; or

14 2. Notify the commissioner of the Department for Natural Resources or the  
15 director of the Division of Mine Safety within thirty (30) days of the  
16 notification that the holder intends to be evaluated by a medical  
17 professional trained in substance treatment, to complete any prescribed  
18 treatment, and to submit an acceptable result from a drug and alcohol  
19 test as required by KRS 351.182;

20 (b) Failure to file an appeal or failure to notify the commissioner of the  
21 Department for Natural Resources or the director of the Division of Mine  
22 Safety of the holder's intent to comply with paragraph (a)2. of this subsection  
23 within thirty (30) days of the notification shall result in the revocation of all  
24 licenses and certifications issued by the Division of Mine Safety for a period  
25 of not less than three (3) years, and the holder shall remain ineligible for any  
26 other certification issued by the Division of Mine Safety during the revocation  
27 period. Certifications and licenses revoked under this paragraph may be

1 reissued by:

- 2 1. Compliance with all training and testing requirements;
  - 3 2. Satisfying the requirements of KRS 351.182 and 351.183; and
  - 4 3. Compliance with all orders of the Mine Safety Review Commission; and
- 5 (c) The completion of the evaluation, treatment, and submission of an acceptable  
6 drug test pursuant to paragraph (a)2. of this subsection or the revocation  
7 described under paragraph (b) of this subsection shall be considered a first  
8 offense.

9 (13) The licenses and certifications of a miner who notifies the commissioner of the  
10 Department for Natural Resources or the director of the Division of Mine Safety of  
11 his or her intent to comply with subsection (12)(a)2. of this section shall remain  
12 suspended until the miner has provided proof of the evaluation and successful  
13 completion of any prescribed treatment and has submitted a negative drug and  
14 alcohol test as required by KRS 351.182 to the division. The drug and alcohol test  
15 shall be taken no more than thirty (30) days prior to the submission of the proof  
16 required by this section. Upon receipt and review of the proof by the division, the  
17 miner's licenses and certifications shall be restored. In the event that the miner fails  
18 to successfully complete the evaluation, treatment, and drug test within one hundred  
19 twenty (120) days of his or her notification pursuant to subsection (12)(a)2. of this  
20 section, the miner's licenses and certifications issued by the division shall be  
21 revoked for a period prescribed under KRS 351.990(8). The one hundred twenty  
22 (120) day time period set out in this section shall be extended upon proof that the  
23 miner is complying with the recommendations of the medical professional.

24 (14) If the suspension described in subsection (12) of this section occurs following the  
25 miner's first offense as described in this section or KRS 351.184, the notification  
26 sent to the miner shall not include the option of notifying the division of the miner's  
27 intent to seek an evaluation and treatment. The miner shall only have the right to

1 appeal the suspension to the Mine Safety Review Commission within thirty (30)  
2 days of notification. If the miner fails to appeal the suspension, the penalty shall be  
3 assessed according to KRS 351.990(8)(b) or (c).

4 ➔Section 38. KRS 351.122 is amended to read as follows:

5 (1) In lieu of an examination prescribed by law or regulation, the department~~board~~  
6 may enter into a reciprocal agreement with another state regarding the certification  
7 of miners. The department~~board~~ may, pursuant to a reciprocal agreement, issue to  
8 any person holding a certificate issued by another state a certificate permitting him  
9 or her to perform similar tasks in the Commonwealth if:

10 (a) The department~~board~~ finds that the requirements for certification in the  
11 other state are substantially equivalent to those of Kentucky;

12 (b) The person passes only the applicable part of the examination with regard to  
13 Kentucky law which is uniquely different from the other state;

14 (c) The person has submitted proof, in accordance with KRS 351.182, that he or  
15 she is drug and alcohol free;

16 (d) The person's retraining is sufficient to meet Kentucky requirements; and

17 (e) The person's certification in Kentucky or in any other state has not been  
18 suspended, revoked, or probated.

19 (2) Upon receipt of notice from a reciprocal state of a disciplinary action relating to any  
20 of the certifications or licenses issued to a miner who also holds corresponding  
21 licenses or certifications issued by the Division of Mine Safety, the commissioner  
22 shall impose analogous sanctions against the miner's Kentucky licenses or  
23 certifications. These sanctions shall terminate upon proof of compliance with the  
24 orders from the reciprocal state.

25 ➔Section 39. KRS 351.125 is amended to read as follows:

26 The department shall provide first-aid training incorporating all training required by the  
27 state's approved program for emergency medical technicians or the department's mine

1 emergency technician program which is applicable to mines. Each candidate for  
 2 certification as a mine foreman shall complete the department's first-aid course of  
 3 instruction and shall pass an examination on the course as a prerequisite for certification. ~~4~~  
 4 ~~The course of instruction and examination shall have prior approval of the board.~~

5       ➔Section 40. KRS 352.010 is amended to read as follows:

- 6 (1) As used in this chapter, unless the context requires otherwise:
- 7 (a) "Abandoned workings" means excavations, either caved or sealed, that are  
 8 deserted and in which further mining is not intended, or open workings which  
 9 are ventilated and not inspected regularly;
- 10 (b) "Active workings" means all places in a mine that are ventilated and inspected  
 11 regularly;
- 12 (c) "Approved" means that a device, apparatus, equipment, machinery, or practice  
 13 employed in the mining of coal has been approved by the commissioner of the  
 14 Department for Natural Resources;
- 15 (d) "Assistant mine foreman" means a certified person designated to assist the  
 16 mine foreman in the supervision of a portion or the whole of a mine or of the  
 17 persons employed therein;
- 18 (e) ~~["Board" means the Mining Board created in KRS 351.105;~~  
 19 ~~(f)—]~~"Commercial mine" means any coal mine from which coal is mined for sale,  
 20 commercial use, or exchange. This term shall in no instance be construed to  
 21 include a mine where coal is produced for own use;
- 22 ~~(f)~~~~(g)~~ "Commissioner" means commissioner of the Department for Natural  
 23 Resources;
- 24 ~~(g)~~~~(h)~~ "Department" means the Department for Natural Resources;
- 25 ~~(h)~~~~(i)~~ "Drift" means an opening through strata or coal seams with opening  
 26 grades sufficient to permit coal to be hauled therefrom, or which is used for  
 27 the purpose of ventilation, drainage, ingress, egress, and other purposes in

1 connection with the mining of coal;

2 ~~(i)~~(j) "Director" means the director of the Division of Mine Safety;

3 ~~(j)~~(k) "Excavations and workings" means the excavated portions of a mine;

4 ~~(k)~~(l) "Face equipment" means mobile or portable mining machinery having  
5 electric motors or accessory equipment normally installed or operated in by the  
6 last open crosscut in any entry or room;

7 ~~(l)~~(m) "Fire boss" (often referred to as mine examiner) means a person certified  
8 as a mine foreman or assistant mine foreman who is designated by  
9 management to examine a mine or part of a mine for explosive gas or other  
10 dangers before a shift crew enters;

11 ~~(m)~~(n) "Gassy mine." All underground mines shall be classified as gassy or  
12 gaseous;

13 ~~(n)~~(o) "High voltage" means any voltage of one thousand (1,000) volts or  
14 more;

15 ~~(o)~~(p) "Imminent danger" means the existence of any condition or practice  
16 which could reasonably be expected to cause death or serious physical injury  
17 before the condition or practice can be abated;

18 ~~(p)~~(q) "Inactive workings" shall include all portions of a mine in which  
19 operations have been suspended for an indefinite period, but have not been  
20 abandoned;

21 ~~(q)~~(r) "Intake air" means air that has not passed through the last working place  
22 of the split or by the unsealed entrances to abandoned workings and by  
23 analysis contains not less than nineteen and one-half percent (19.5%) of  
24 oxygen, no dangerous quantities of flammable gas, and no harmful amounts of  
25 poisonous gas or dust;

26 ~~(r)~~(s) "Licensee" means any owner, operator, lessee, corporation, partnership,  
27 or other person who procures a license from the department to operate a coal

1 mine;

2 ~~(s)~~~~(t)~~ "Low voltage" means up to and including six hundred sixty (660) volts;

3 ~~(t)~~~~(u)~~ "Medium voltage" means voltages greater than six hundred sixty (660)

4 and up to nine hundred ninety-nine (999) volts;

5 ~~(u)~~~~(v)~~ "Mine" means any open pit or any underground workings from which

6 coal is produced for sale, exchange, or commercial use, and all shafts, slopes,

7 drifts, or inclines leading thereto, and includes all buildings and equipment,

8 above or below the surface of the ground, used in connection with the

9 workings. Workings that are adjacent to each other and under the same

10 management and which are administered as distinct units shall be considered

11 separate mines;

12 ~~(v)~~~~(w)~~ "Mine foreman" means a certified person whom the licensee, mine

13 manager, or superintendent places in charge of the workings of the mine and

14 of persons employed therein;

15 ~~(w)~~~~(x)~~ "Mine manager" means a certified or noncertified person whom the

16 licensee places in charge of a mine or mines and whose duties include but are

17 not limited to operations at the mine or mines and supervision of personnel

18 when qualified to do so;

19 ~~(x)~~~~(y)~~ "NAD 83" means the North American Datum, 1983 version, in feet

20 units;

21 ~~(y)~~~~(z)~~ "Open-pit mine" shall include open excavations and open-cut workings

22 including auger operations and highwall mining systems for the extraction of

23 coal;

24 ~~(z)~~~~(aa)~~ "Operator" means the licensee, owner, lessee, or other person who

25 operates or controls a coal mine;

26 ~~(aa)~~~~(ab)~~ "Permissible" means that any equipment, device, or explosive that has

27 been approved by the United States Bureau of Mines, the Mining Enforcement

1 and Safety Administration, or the Mine Safety and Health Administration  
2 meets all requirements, restrictions, exceptions, limitations, and conditions  
3 attached to the classification;

4 ~~(ab)~~~~(ac)~~ "Preshift examination" refers to the examination of an underground  
5 mine or part of a mine where miners are scheduled to work or travel, and shall  
6 be conducted not more than three (3) hours before any oncoming shift;

7 ~~(ac)~~~~(ad)~~ "Return air" means air that has passed through the last active working  
8 place on each split, or air that has passed through abandoned, inaccessible, or  
9 pillared workings;

10 ~~(ad)~~~~(ae)~~ "Serious physical injury" means an injury which has a reasonable  
11 potential to cause death;

12 ~~(ae)~~~~(af)~~ "Shaft" means a vertical opening through the strata that is or may be  
13 used, in connection with the mining of coal, for the purpose of ventilation or  
14 drainage, or for hoisting men, coal, or materials;

15 ~~(af)~~~~(ag)~~ "Single Zone Projection" means the Kentucky Single Zone State Plane  
16 Coordinate System of 1983, based on the Lambert Conformal Conical map  
17 projection with double standard parallels on the North American Datum, 1983  
18 version, as established in 10 KAR 5:010;

19 ~~(ag)~~~~(ah)~~ "Slope" means an inclined opening used for the same purpose as a shaft;

20 ~~(ah)~~~~(ai)~~ "Superintendent" means the person who, on behalf of the licensee, has  
21 immediate supervision of one (1) or more mines;

22 ~~(ai)~~~~(aj)~~ "Supervisory personnel" shall mean a person or persons certified under  
23 the provisions of KRS Chapter 351 to assist in the supervision of a portion or  
24 the whole of the mine or of the persons employed therein;

25 ~~(aj)~~~~(ak)~~ "Tipple or dumping point" means the structure where coal is dumped or  
26 unloaded from the mine car into railroad cars, trucks, wagons, or other means  
27 of conveyance;

1        ~~(ak)~~~~(al)~~ "Working face" means any place in a coal mine at which the extraction  
2                    of coal from its natural deposit in the earth is performed during the mining  
3                    cycle;

4        ~~(al)~~~~(am)~~ "Working place" means the area of a coal mine inby the last open  
5                    crosscut;

6        ~~(am)~~~~(an)~~ "Working section" means all areas of a coal mine from the loading point  
7                    to and including the working faces; and

8        ~~(an)~~~~(ao)~~ "Workmanlike manner" means consistent with established practices and  
9                    methods utilized in the coal industry.

10      (2) The definitions in KRS 351.010 apply also to this chapter, unless the context  
11                    requires otherwise.

12      (3) Except as the context otherwise requires, this chapter applies only to commercial  
13                    mines as defined in KRS 351.010 and shall not apply to electrical facilities owned,  
14                    operated, or otherwise controlled by a retail electric supplier or generation and  
15                    transmission cooperative as defined in KRS 278.010 or organized under KRS  
16                    Chapter 279 for the purpose of communication, metering, or for the generation,  
17                    control, transformation, transmission, and distribution of electric energy located in  
18                    buildings used exclusively by utilities for such purposes or located outdoors on  
19                    property owned or leased by the utility or on public highways, streets, roads, or  
20                    outdoors by established easement rights on private property and that are covered by  
21                    the National Electric Safety Code (NESC) or other applicable safety codes, or other  
22                    authorities having jurisdiction and shall not apply to installations under the  
23                    exclusive control of utilities for the purpose of communication, metering, or for the  
24                    generation, control, transformation, transmission, and distribution of electric energy  
25                    located in buildings used exclusively by utilities for such purposes or located  
26                    outdoors on property owned or leased by the utility or on public highways, streets,  
27                    roads, or outdoors by established rights on private property.



1           ➔Section 41. KRS 352.310 is amended to read as follows:

2 Any fire boss who fails to perform his duties, or who makes a false report of the condition  
3 of any place in the portion of the mine allotted to him for examination, shall be suspended  
4 by the mine foreman, and his name shall be given to the mine inspector for prosecution. If  
5 he is found guilty by the Mine Safety Review Commission~~board~~, he shall return his  
6 certificate of qualification to the department.

7           ➔Section 42. KRS 224.10-100 is amended to read as follows:

8 In addition to any other powers and duties vested in it by law, the cabinet shall have the  
9 authority, power, and duty to:

- 10 (1) Exercise general supervision of the administration and enforcement of this chapter,  
11 and all rules, regulations, and orders promulgated thereunder;
- 12 (2) Prepare and develop a comprehensive plan or plans related to the environment of  
13 the Commonwealth;
- 14 (3) Encourage industrial, commercial, residential, and community development which  
15 provides the best usage of land areas, maximizes environmental benefits, and  
16 minimizes the effects of less desirable environmental conditions;
- 17 (4) Develop and conduct a comprehensive program for the management of water, land,  
18 and air resources to assure their protection and balance utilization consistent with  
19 the environmental policy of the Commonwealth;
- 20 (5) Provide for the prevention, abatement, and control of all water, land, and air  
21 pollution, including but not limited to that related to particulates, pesticides, gases,  
22 dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;
- 23 (6) Provide for the control and regulation of surface coal mining and reclamation in a  
24 manner to accomplish the purposes of KRS Chapter 350;
- 25 (7) Secure necessary scientific, technical, administrative, and operational services,  
26 including laboratory facilities, by contract or otherwise;
- 27 (8) Collect and disseminate information and conduct educational and training programs

- 1 relating to the protection of the environment;
- 2 (9) Appear and participate in proceedings before any federal regulatory agency  
3 involving or affecting the purposes of the cabinet;
- 4 (10) Enter and inspect any property or premises for the purpose of investigating either  
5 actual or suspected sources of pollution or contamination or for the purpose of  
6 ascertaining compliance or noncompliance with this chapter, or any regulation  
7 which may be promulgated thereunder;
- 8 (11) Conduct investigations and hold hearings and compel the attendance of witnesses  
9 and the production of accounts, books, and records by the issuance of subpoenas;
- 10 (12) Accept, receive, and administer grants or other funds or gifts from public and  
11 private agencies including the federal government for the purpose of carrying out  
12 any of the functions of the cabinet. The funds received by the cabinet shall be  
13 deposited in the State Treasury to the account of the cabinet;
- 14 (13) Request and receive the assistance of any state or municipal educational institution,  
15 experiment station, laboratory, or other agency when it is deemed necessary or  
16 beneficial by the cabinet in the performance of its duties;
- 17 (14) Advise, consult, and cooperate with other agencies of the Commonwealth, other  
18 states, the federal government, and interstate and interlocal agencies, and affected  
19 persons, groups, and industries;
- 20 (15) Formulate guides for measuring presently unidentified environmental values and  
21 relationships so they can be given appropriate consideration along with social,  
22 economic, and technical considerations in decision making;
- 23 (16) Monitor the environment to afford more effective and efficient control practices, to  
24 identify changes and conditions in ecological systems, and to warn of emergency  
25 conditions;
- 26 (17) Adopt, modify, or repeal with the recommendation of the commission any standard,  
27 regulation, or plan[ specified in ~~KRS 224.1-110(5) and (6)~~];

- 1 (18) Issue, after hearing, orders abating activities in violation of this chapter, or the  
2 provisions of this chapter, or the regulations promulgated pursuant thereto and  
3 requiring the adoption of the remedial measures the cabinet deems necessary;
- 4 (19) Issue, continue in effect, revoke, modify, suspend, or deny under such conditions as  
5 the cabinet may prescribe and require that applications be accompanied by plans,  
6 specifications, and other information the cabinet deems necessary for the following  
7 permits:
- 8 (a) Permits to discharge into any waters of the Commonwealth, and for the  
9 installation, alteration, expansion, or operation of any sewage system;  
10 however, the cabinet may refuse to issue the permits to any person, or any  
11 partnership, corporation, etc., of which the person owns more than ten percent  
12 (10%) interest, who has improperly constructed, operated, or maintained a  
13 sewage system willfully, through negligence, or because of lack of proper  
14 knowledge or qualifications until the time that person demonstrates proper  
15 qualifications to the cabinet and provides the cabinet with a performance  
16 bond;
- 17 (b) Permits for the installation, alteration, or use of any machine, equipment,  
18 device, or other article that may cause or contribute to air pollution or is  
19 intended primarily to prevent or control the emission of air pollution; or
- 20 (c) Permits for the establishment or construction and the operation or  
21 maintenance of waste disposal sites and facilities;
- 22 (20) May establish, by regulation, a fee or schedule of fees for the cost of processing  
23 applications for permits authorized by this chapter, and for the cost of processing  
24 applications for exemptions or partial exemptions which may include but not be  
25 limited to the administrative costs of a hearing held as a result of the exemption  
26 application, except that applicants for existing or proposed publicly owned facilities  
27 shall be exempt from any charge, other than emissions fees assessed pursuant to

- 1 KRS 224.20-050, and that certain nonprofit organizations shall be charged lower  
2 fees to process water discharge permits under KRS 224.16-050(5);
- 3 (21) May require for persons discharging into the waters or onto the land of the  
4 Commonwealth, by regulation, order, or permit, technological levels of treatment  
5 and effluent limitations;
- 6 (22) Require, by regulation, that any person engaged in any operation regulated pursuant  
7 to this chapter install, maintain, and use at such locations and intervals as the  
8 cabinet may prescribe any equipment, device, or test and the methodologies and  
9 procedures for the use of the equipment, device, or test to monitor the nature and  
10 amount of any substance emitted or discharged into the ambient air or waters or  
11 land of the Commonwealth and to provide any information concerning the  
12 monitoring to the cabinet in accordance with the provisions of subsection (23) of  
13 this section;
- 14 (23) Require by regulation that any person engaged in any operation regulated pursuant  
15 to this chapter file with the cabinet reports containing information as to location,  
16 size, height, rate of emission or discharge, and composition of any substance  
17 discharged or emitted into the ambient air or into the waters or onto the land of the  
18 Commonwealth, and such other information the cabinet may require;
- 19 (24) Promulgate regulations, guidelines, and standards for waste planning and  
20 management activities, approve waste management facilities, develop and publish a  
21 comprehensive statewide plan for nonhazardous waste management which shall  
22 contain but not be limited to the provisions set forth in KRS 224.43-345, and  
23 develop and publish a comprehensive statewide plan for hazardous waste  
24 management which shall contain but not be limited to the following:
- 25 (a) A description of current hazardous waste management practices and costs,  
26 including treatment and disposal, within the Commonwealth;
- 27 (b) An inventory and description of all existing facilities where hazardous waste

1 is being generated, treated, recycled, stored, or disposed of, including an  
2 inventory of the deficiencies of present facilities in meeting current hazardous  
3 waste management needs and a statement of the ability of present hazardous  
4 waste management facilities to comply with state and federal laws relating to  
5 hazardous waste;

6 (c) A description of the sources of hazardous waste affecting the Commonwealth  
7 including the types and quantities of hazardous waste currently being  
8 generated and a projection of such activities as can be expected to continue for  
9 not less than twenty (20) years into the future; and

10 (d) An identification and continuing evaluation of those locations within the  
11 Commonwealth which are naturally or may be engineered to be suitable for  
12 the establishment of hazardous waste management facilities, and an  
13 identification of those general characteristics, values, and attributes which  
14 would render a particular location unsuitable, consistent with the policy of  
15 minimizing land disposal and encouraging the treatment and recycling of the  
16 wastes.

17 The statewide waste management plans shall be developed consistent with state and  
18 federal laws relating to waste;

19 (25) Perform other acts necessary to carry out the duties and responsibilities described in  
20 this section;

21 (26) Preserve existing clean air resources while ensuring economic growth by issuing  
22 regulations, which shall be no more stringent than federal requirements, setting  
23 maximum allowable increases from stationary sources over baseline concentrations  
24 of air contaminants to prevent significant deterioration in areas meeting the state  
25 and national ambient air quality standards;

26 (27) Promulgate regulations concerning the bonding provisions of subsection (19)(a) of  
27 this section, setting forth bonding requirements, including but not limited to

1 requirements for the amount, duration, release, and forfeiture of the bonds. All  
2 funds from the forfeiture of bonds required pursuant to this section shall be placed  
3 in the State Treasury and credited to a special trust and agency account which shall  
4 not lapse. The account shall be known as the "sewage treatment system  
5 rehabilitation fund" and all moneys placed in the fund shall be used for the  
6 elimination of nuisances and hazards created by sewage systems which were  
7 improperly built, operated, or maintained, and insofar as practicable be used to  
8 correct the problems at the same site for which the bond or other sureties were  
9 originally provided;

10 (28) Promulgate administrative regulations not inconsistent with the provisions of law  
11 administered by the cabinet; and

12 (29) Through the secretary or designee of the secretary, enter into, execute, and enforce  
13 reciprocal agreements with responsible officers of other states relating to  
14 compliance with the requirements of KRS Chapters 350, 351, and 352 and the  
15 administrative regulations promulgated under those chapters.

16 ➔Section 43. KRS 350.240 is amended to read as follows:

17 The Energy and Environment Cabinet may adopt~~[ in the manner provided in subsection~~  
18 ~~(17) of KRS 224.10-100 and subsections (5) and (6) of KRS 224.1-110]~~ reasonable  
19 regulations for the reclamation of land disturbed or removed in the mining of clay. Such  
20 regulations shall encourage water impoundments and shall follow the standards  
21 established in Article III of the Interstate Mining Compact. The cabinet shall have the  
22 authority to adopt such regulations prior to the effective date of the Interstate Mining  
23 Compact and irrespective of whether the state becomes a member or withdraws from  
24 membership in the Interstate Mining Compact.

25 ➔Section 44. KRS 224.30-175 is amended to read as follows:

26 All local governments~~[, as defined in KRS 224.30-105,]~~ may develop, adopt, and  
27 maintain a comprehensive program of noise regulation. ~~A[Such]~~ program may include a

1 study of the noise problems resulting from uses and activities within its jurisdiction and  
2 the development and adoption of a noise control plan.

3 ➔Section 45. KRS 224.43-815 is amended to read as follows:

4 ~~[(1)]~~ The secretary of the Cabinet for Economic Development and the special assistant to  
5 the Governor for coal and energy policy, with the approval of the Governor and the  
6 Legislative Research Commission, may execute contracts pursuant to KRS 224.43-  
7 810.

8 ~~[(2) No agreements or contracts may be entered into before a regional integrated waste  
9 treatment and disposal demonstration facility has received a certificate of  
10 environmental safety and public necessity from the board established in KRS  
11 224.46-820.]~~

12 ➔Section 46. KRS 224.46-520 is amended to read as follows:

13 (1) No person shall engage in the storage, treatment, recycling, or disposal of hazardous  
14 waste without first notifying the cabinet and obtaining construction and operation  
15 permits from the cabinet. The cabinet shall promulgate regulations establishing  
16 standards for such permits but in no case shall a permit to construct or operate a  
17 hazardous waste site or facility or a regional integrated waste treatment and disposal  
18 demonstration facility be issued unless it can be demonstrated that the proposed  
19 facility can be integrated into the surroundings in an environmentally compatible  
20 manner, including but not limited to, insuring that hydrologic, seismologic,  
21 geologic, and soil considerations have been adequately addressed in the permit  
22 application and in an operational plan. In no case shall a permit to construct a  
23 hazardous waste incinerator, landfill, or other site or facility for the land disposal of  
24 hazardous waste be approved or issued prior to notification of the cabinet by the  
25 local unit of government of its actions pursuant to KRS 224.40-310(6). The cabinet  
26 shall not issue a construction permit to a regional integrated waste treatment and  
27 disposal demonstration facility until it has been issued a certificate of environmental

1 safety and public necessity. A person desiring a construction permit shall file an  
2 application on forms supplied by the cabinet which shall contain such information  
3 as the cabinet deems necessary and provide evidence that the hazardous waste shall  
4 be treated, stored or disposed of in the manner prescribed by the cabinet. The  
5 applicant shall not initiate construction at the proposed site of a new facility for the  
6 storage, treatment, or disposal of hazardous waste until notice has been given to that  
7 portion of the public most likely to be affected by the operation of the proposed  
8 facility pursuant to KRS 224.40-310(1) to (5) and until a construction permit for  
9 said facility has been issued by the cabinet. The cabinet may consider past  
10 performance in this or related fields by the applicant. The cabinet, in making a  
11 determination to issue, deny, or condition a construction permit, shall consider the  
12 following:

- 13 (a) An evaluation of alternatives, to include other locations and other treatment,  
14 storage, and disposal approaches, different from those proposed, available to  
15 the applicant;
- 16 (b) An evaluation of the public health, safety, and environmental aspects of the  
17 proposals;
- 18 (c) An evaluation of the social and economic impacts of the proposed action on  
19 the affected community, to include, at a minimum, changes in property values,  
20 community perception and other psychic costs, and the costs and availability  
21 of public services, facilities and improvements required to support the facility  
22 and protect public health, safety, and the environment;
- 23 (d) An evaluation of mitigation measures to alleviate problems identified in  
24 paragraphs (b) and (c) of this subsection; and
- 25 (e) The relationship of the proposal to local planning and existing development.

26 Except that in the case of hazardous waste incinerators, landfills, or other sites or  
27 facilities for the land disposal of hazardous waste, the provisions of paragraphs (c)



1 and (e) of this subsection shall be determined by the local unit of government  
2 pursuant to KRS 224.40-310(6)[; in the case of a regional integrated waste  
3 treatment and disposal demonstration facility the provisions of paragraphs (c) and  
4 (e) of this subsection shall be determined by the siting board established pursuant to  
5 KRS 224.46-820].

6 (2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria  
7 and list of hazardous waste to be prohibited by the cabinet from land disposal shall  
8 be identical to any such criteria and list promulgated by the United States  
9 Environmental Protection Agency pursuant to the Resource Conservation and  
10 Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of  
11 hazardous waste may be permitted for methods determined by the cabinet to be  
12 protective of human health and the environment for as long as the waste remains  
13 hazardous.

14 (3) In conjunction with the application for permits under this section, the applicant shall  
15 establish adequate financial responsibility as follows:

16 (a) The applicant shall file as part of his application for a permit to construct the  
17 facility an estimate of the cost of closing the facility after its capacity is  
18 reached or operations have otherwise ceased and an estimate of the cost of  
19 post-closure care. In the case of storage facilities, the cost of closing shall  
20 include the cost of properly disposing of the hazardous waste stored. The  
21 cabinet shall evaluate this cost estimate and either accept the estimate as made  
22 or shall revise it in accordance with acceptable guidelines, using, where  
23 available, actual data on closure costs associated with similar existing  
24 facilities. Before a permit to operate can be issued, the applicant for any  
25 hazardous waste permit shall assure that the funds needed to close the facility  
26 are available by establishing assurance through one (1) or more of the  
27 following mechanisms: cash, certificates of deposit, irrevocable credit, or

1 other sureties satisfactory to the cabinet and the mechanism shall be  
2 established by agreement with the cabinet. The agreement shall provide that  
3 disbursement is permissible only upon written approval of the cabinet and  
4 whenever, on the basis of any information, the cabinet determines that the  
5 owner or operator is in violation of any of the closure requirements for the  
6 facility, that the cabinet shall have the right to use part or all of the closure  
7 fund to carry out the closure requirements. The financial institution, surety  
8 company, or escrow agent shall release these funds upon receiving a forfeiture  
9 order of the cabinet issued pursuant to an appropriate administrative hearing  
10 considering one (1) or more closure violations. Upon determination that  
11 closure has been satisfactorily accomplished, the cabinet shall release the  
12 applicant from further financial responsibility for closure;

- 13 (b) Any applicant for a hazardous waste disposal permit shall file with the cabinet  
14 as part of his application an estimate of the annual cost of post-closure  
15 monitoring and routine maintenance at the site. The cabinet shall evaluate the  
16 cost estimate, and, after such modification as may be necessary in light of its  
17 evaluation, shall give notice of acceptance of the cost estimate. This cost  
18 estimate which will be referred to as the annual post-closure operating cost  
19 shall then be used to determine the amount of the post-closure monitoring and  
20 maintenance fund to be used for monitoring and maintenance for a period of a  
21 minimum of thirty (30) years after facility closure. The post-closure  
22 monitoring and maintenance fund shall be cash, irrevocable credit, or other  
23 sureties satisfactory to the cabinet and shall be established by an agreement  
24 with the cabinet. The agreement shall provide that whenever, on the basis of  
25 any information, the cabinet determines that the owner or operator of the  
26 facility is in violation of any of the post-closure monitoring and maintenance  
27 requirements, the cabinet shall have the right to use part or all of the funds to

1 carry out the post-closure monitoring and maintenance for the facility. The  
2 funds shall be released upon receipt of a forfeiture order of the cabinet issued  
3 pursuant to an appropriate administrative hearing considering one (1) or more  
4 post-closure monitoring and maintenance violations. One (1) year after  
5 closure, and annually thereafter for a period of thirty (30) years, the applicant  
6 who has carried out all necessary post-closure maintenance and monitoring  
7 requirements may upon application to the cabinet be reimbursed out of the  
8 post-closure monitoring and maintenance fund an amount equal to the  
9 estimated costs for monitoring and routine maintenance for that year. Request  
10 for release of funds for reimbursement shall be accompanied by an itemized  
11 list of costs incurred. Upon determination that the expenditures incurred are in  
12 accordance with the approved plan, or otherwise justified, the cabinet may  
13 authorize the release of the funds to the applicant in writing. Any funds  
14 remaining in the account following a termination hearing in which the  
15 applicant is released of further responsibility shall likewise be released to the  
16 applicant; and

- 17 (c) All applicants for any hazardous waste permit shall provide evidence of  
18 financial responsibility in an amount and for a time period specified by the  
19 cabinet for the purpose of corrective action on and off-site and satisfying  
20 claims arising out of injury to persons or property resulting from the release or  
21 escape of hazardous waste into the environment. Such financial responsibility  
22 may be established by one (1) or a combination of evidence of liability  
23 insurance, self-insurance, or other evidence of financial responsibility  
24 acceptable to the cabinet. The level of self-insurance shall not exceed ten  
25 percent (10%) of equity, and financial responsibility shall be maintained  
26 during the entire operation of the facility and until termination. The minimum  
27 liability coverage for sudden occurrences, exclusive of legal defense costs, for

1 a storage, treatment, or disposal facility shall be one million dollars  
2 (\$1,000,000) per occurrence with an annual aggregate of two million dollars  
3 (\$2,000,000). The minimum liability coverage for nonsudden occurrences,  
4 exclusive of legal defense costs, for a hazardous waste facility involving land  
5 disposal shall be three million dollars (\$3,000,000) per occurrence with an  
6 annual aggregate of six million dollars (\$6,000,000). Combined coverage for  
7 sudden and nonsudden occurrences shall be no less than the combined totals  
8 herein set forth for separate coverage. The cabinet shall accept a  
9 demonstration of financial responsibility during the post-closure period of a  
10 facility for a lesser amount for sudden or non-sudden occurrences where it is  
11 shown that a lesser amount of financial responsibility will be adequate to  
12 provide compensation for third-party injury or property damage and corrective  
13 action, considering site and facility conditions and other site-specific factors.  
14 Financial responsibility in post-closure for sudden and non-sudden  
15 occurrences and corrective action may be demonstrated through a letter of  
16 credit, surety or other bond, corporate guarantee, trust fund, liability  
17 insurance, self-insurance, or combination of these or other methods as  
18 approved by the cabinet.

19 (4) The cabinet shall promulgate regulations establishing minimal standards for closure,  
20 post-closure monitoring and maintenance, and termination of sites for the disposal  
21 of hazardous waste. Any person who obtains a disposal permit for hazardous waste  
22 shall be responsible for the post-closure monitoring and maintenance of the  
23 permitted facility for a minimum of thirty (30) years after closure of the facility. The  
24 permittee may apply to the cabinet for termination of the responsibility for post-  
25 closure monitoring and maintenance at any time during the thirty (30) year post-  
26 closure monitoring and maintenance period. Upon receipt of such application, the  
27 cabinet shall provide notice to the public and to the owner or operator and an

1 opportunity for a hearing on the termination of the site. In this proceeding, the  
2 burden shall be on the applicant to prove by clear and convincing evidence that  
3 additional post-closure monitoring and maintenance is not necessary for adequate  
4 protection of public health or the environment. The cabinet shall determine either  
5 that post-closure monitoring and maintenance of the site is no longer required, in  
6 which case the applicant shall be relieved of such responsibility; or that additional  
7 post-closure monitoring and maintenance of the site as specified in a plan of  
8 operation is still required, in which case the cabinet may order appropriate remedial  
9 measures, impose restrictive covenants as to future use of the property involved, or  
10 otherwise condition termination as may be necessary for adequate protection of  
11 public health and the environment. The cabinet may require additional monitoring,  
12 site maintenance, or remedial measures consistent with KRS Chapter 224 any time  
13 after termination of the post-closure monitoring and maintenance of the permitted  
14 facility in the event that the cabinet determines such actions are necessary for the  
15 protection of human health and the environment.

16 (5) In any case where the owner or operator is in bankruptcy, reorganization, or  
17 arrangement pursuant to the Federal Bankruptcy Code or where jurisdiction cannot  
18 be obtained with reasonable diligence in any state court or any federal court over an  
19 owner or operator likely to be insolvent at the time of judgment, any claim arising  
20 from conduct for which evidence of financial responsibility shall be provided under  
21 this section may be asserted directly against the guarantor providing such evidence  
22 of financial responsibility. In the case of any action pursuant to this subsection, such  
23 guarantor shall be entitled to invoke all rights and defenses which would have been  
24 available to the owner or operator if any action had been brought against the owner  
25 or operator by the claimant and which would have been available to the guarantor if  
26 an action had been brought against the guarantor by the owner or operator.

27 (6) The total liability of any guarantor shall be limited to the aggregate amount which

1 the guarantor has provided as evidence of financial responsibility to the owner or  
2 operator under this section. Nothing in this subsection shall be construed to limit  
3 any other federal statutory, contractual or common law liability of a guarantor to its  
4 owner or operator including, but not limited to, the liability of such guarantor for  
5 bad faith either in negotiating or in failing to negotiate the settlement of any claim.  
6 Nothing in this subsection shall be construed to diminish the liability of any person  
7 under Section 107 or 111 of the Comprehensive Environmental Response,  
8 Compensation and Liability Act of 1980 or other applicable law.

9 (7) For the purpose of this subsection, the term guarantor means any person, other than  
10 the owner or operator, who provides evidence of financial responsibility for an  
11 owner or operator under this section.

12 (8) Any hazardous waste treatment, storage, or disposal facility shall close in  
13 accordance with the permit and this chapter, if the site or facility has not been  
14 maintained in operational condition in conformance with this chapter, for any  
15 period of six (6) months or longer. The permittee shall be afforded an opportunity to  
16 be heard on the proposed termination of authorization to operate, and termination  
17 under this section shall not be required where the permittee demonstrates that steps  
18 have been taken to bring the facility, within a reasonable time not to exceed ninety  
19 (90) days, into full operational status in accordance with this chapter and applicable  
20 regulations. Within ninety (90) days, the cabinet shall review existing hazardous  
21 waste treatment, storage, or disposal permits to determine compliance with this  
22 section.

23 ➔Section 47. KRS 350.054 is amended to read as follows:

24 (1) There is established a special fund to be known as the "Illegal Mining and  
25 Conveyance Reclamation Fund" which shall be under the control of the Energy and  
26 Environment Cabinet.

27 (2) The fund shall consist of all moneys from the sale or forfeiture of all

1 instrumentality used in violation of KRS 350.057(3) or 350.060(1) ~~as provided~~  
 2 ~~for in KRS 350.053].~~

3 (3) Moneys in the fund may be used for the following purposes:

4 (a) To reclaim lands mined without a permit or authorization, as required by KRS  
 5 350.057 or 350.060(1), and not eligible for the abandoned mine lands  
 6 reclamation fund; and

7 (b) To defray all expenses associated with the seizure, storing, and sale of  
 8 forfeited property ~~pursuant to KRS 350.053].~~

9 (4) Moneys contained in the illegal mining and conveyance reclamation fund shall be  
 10 deemed a trust and agency account and shall not lapse.

11 (5) The cabinet shall have access to and control of the moneys held in the illegal mining  
 12 and conveyance reclamation fund, but shall expend the moneys only for the  
 13 purposes set forth in subsection (3) of this section.

14 ➔Section 48. The following KRS sections are repealed:

15 151.232 Participation in development of administrative regulations.

16 154.47-100 Definitions for KRS 154.47-105 to 154.47-120.

17 154.47-105 Legislative findings.

18 154.47-110 Kentucky Forest Products Council.

19 154.47-120 Purposes of council.

20 224.1-100 Environmental Quality Commission: Membership, terms, compensation,  
 21 officers, meetings.

22 224.1-105 Eligibility limitations on commission membership.

23 224.1-110 Powers and duties of commission.

24 224.1-115 Recommendation of adoption or rejection of proposals -- Adoption upon  
 25 recommendation of rejection, statement of reason.

26 224.1-200 Environmental trust fund created.

27 224.1-205 Uses for environmental trust fund.

- 1 224.1-210 Environmental Board.
- 2 224.1-215 Powers and duties of Environmental Board.
- 3 224.1-220 Limitation on use of fund.
- 4 224.10-660 Kentucky Recycling and Marketing Assistance Program -- Advisory
- 5 committee -- Report.
- 6 224.30-050 Noise emission prohibitions.
- 7 224.30-100 Findings and policy.
- 8 224.30-105 Definitions for KRS 224.30-100 to 224.30-190.
- 9 224.30-110 Agency cooperation and compliance with control requirements -- Review of
- 10 standards or regulations -- Report to secretary.
- 11 224.30-115 Development and maintenance of comprehensive state-wide program of
- 12 noise regulation.
- 13 224.30-120 Powers of secretary.
- 14 224.30-125 Certification of products -- Purchase or lease for state government --
- 15 Periodic testing -- Procedure when level exceeds that on which certification is
- 16 based.
- 17 224.30-130 Variances.
- 18 224.30-135 Conditions imposed on granting variances -- Time limit -- Extension.
- 19 224.30-140 Variance petition -- Notice -- Hearing.
- 20 224.30-145 Annual report.
- 21 224.30-150 Standards -- Enforcement jurisdiction.
- 22 224.30-155 Applicability of KRS 224.10-420, 224.10-440 and 224.10-470.
- 23 224.30-160 Remedies additional to those available at law.
- 24 224.30-165 Prohibitions.
- 25 224.30-170 Exceptions.
- 26 224.30-180 Noise control plan -- Contents.
- 27 224.30-185 Adoption and enforcement of ordinances to implement plan.



- 1 224.30-190 Modification of motor vehicle exhaust system to increase noise prohibited.
- 2 224.30-195 Citation of KRS 224.30-100 to 224.30-190.
- 3 224.43-070 Solid Waste Management Legislative Task Force -- Composition -- Duties.
- 4 224.43-080 Newsprint Recycling Task Force -- Composition -- Duties.
- 5 224.43-710 Technical and financial assistance for developing plans.
- 6 224.43-720 Amount of assistance.
- 7 224.43-730 Applications for assistance.
- 8 224.46-810 Definitions.
- 9 224.46-820 Kentucky Regional Integrated Waste Treatment and Disposal Facility Siting
- 10 Board.
- 11 224.46-825 Powers and duties of board.
- 12 224.46-830 Certificate of environmental safety and public necessity -- Application --
- 13 Factors considered -- Presentation of findings -- Appeals.
- 14 224.46-840 Site requirements -- Qualified hazardous waste.
- 15 224.46-850 Establishment of plan for industrial park component of site.
- 16 224.46-860 Operational report.
- 17 224.46-870 Planning for future needs.
- 18 224.50-020 Advisory committee for agricultural chemical and chemical container
- 19 disposal program.
- 20 350.035 Department for Natural Resources -- Divisions -- Appointment of special
- 21 investigations officers.
- 22 350.052 Powers, qualifications, and training of special investigations officers.
- 23 350.053 Seizure and sale of equipment -- Rights of owner or lien holder.
- 24 350.260 Small Coal Operators Advisory Council.
- 25 350.470 Review of regulations.
- 26 350.715 Pool administrator.
- 27 351.105 Mining Board -- Membership -- Hearings -- Administrative regulations.

- 1 351.1055 Mine Equipment Review Panel -- Membership -- Recommendations.
- 2 352.550 Coercion of trade of miners prohibited.